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PREPARED IN THE OFFICE OF THE  
GENERAL COUNSEL FOR THE DEPARTMENT  
OF THE TREASURY



PRINTED FOR THE USE OF THE  
JOINT COMMITTEE ON INTERNAL REVENUE  
TAXATION  
PURSUANT TO  
SECTION 1203 (b) (6), REVENUE ACT OF 1926

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## LETTER OF TRANSMITTAL

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CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,  
*Washington, September 23, 1938.*

*To the Members of the Joint Committee on Internal Revenue Taxation:*

There is transmitted herewith a compilation of the income-tax laws of France, in translation, based on those laws as enacted by a series of codification decrees in 1934, as amended. The compilation was prepared in the office of the General Counsel for the Department of the Treasury, and made available to the Joint Committee on Taxation pursuant to a letter from the chairman of the joint committee to the Secretary of the Treasury dated May 6, 1937.

The compilation is one of a series in preparation by the Department of the Treasury of the tax laws of certain foreign countries, of which we have already received and printed the income-tax laws of Germany and the inheritance and gift-tax laws of Sweden, which are now available to the public at the Government Printing Office.

It is helpful to the committee and the staff to have these compilations in print, and it is suggested that the accompanying document be printed for that purpose, pursuant to section 1203 (b) (6) of the Revenue Act of 1926.

Very truly yours,

PAT HARRISON,  
*Chairman, Joint Committee on Internal Revenue Taxation.*

## LETTER OF SUBMITTAL

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CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,  
*Washington, September 22, 1938.*

HON. PAT HARRISON,  
*Chairman, Joint Committee on Internal  
Revenue Taxation, Congress of the United States.*

MY DEAR MR. CHAIRMAN: There is submitted herewith a compilation of the income-tax laws of France, in translation, which has been prepared in the office of the General Counsel for the Department of the Treasury and made available to the Joint Committee on Internal Revenue Taxation, pursuant to a letter from the chairman to the Secretary under date of May 6, 1937.

This compilation is one of a series of translations of the tax laws of certain foreign countries in preparation by the Department of the Treasury. This committee has already received and had printed a compilation of the income-tax laws of Germany and the inheritance and gift-tax laws of Sweden, which are now available to the public at the Government Printing Office.

It is recommended that this translation be printed for the use of the joint committee and its staff.

Very respectfully,

COLIN F. STAM,  
*Chief of Staff,  
Joint Committee on Internal Revenue Taxation.*

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THE UNDER SECRETARY OF THE TREASURY,  
*Washington, September 13, 1938.*

MR. COLIN F. STAM,  
*Chief of Staff,  
Joint Committee on Internal Revenue Taxation,  
Washington, D. C.*

DEAR MR. STAM: I take pleasure in sending to you herewith, for the use of the Joint Committee on Internal Revenue Taxation, a translation of the income-tax laws of France. This report is being submitted in response to the request contained in a letter, dated May 6, 1937, from the Hon. R. L. Doughton, as chairman of the joint committee, that there be sent to the committee reports on such foreign-tax laws as may be included in the studies being made in the Treasury Department. You will recall that heretofore reports have been sent on the German income-tax laws and the inheritance- and gift-tax laws of Sweden and that those reports have been printed for the use of the joint committee.

The report submitted herewith has been prepared in the office of the General Counsel for the Department of the Treasury by Prof. Francis Deák, of the Columbia University School of Law, New York City.

Very truly yours,

ROSWELL MAGILL,  
*Under Secretary of the Treasury.*



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# FRENCH INCOME-TAX LAWS

[Translated and edited in the Office of the General Counsel for the Department of the Treasury by Prof. Francis Deák, Columbia University School of Law, New York City]

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## INTRODUCTION

This publication is a part of a study of foreign tax laws being made by the Department of the Treasury.

### SCOPE OF THIS REPORT

Part I of this report contains the English textual translation of the code of direct taxes (*code des impôts directs et taxes assimilées*) insofar as it relates to national income taxes. Sections of the code dealing with the so-called assimilated taxes—i. e., taxes which are assimilated to direct national taxes but which are not income taxes, or taxes which are collected by the national tax administration for the benefit of political subdivisions of the State (municipalities and larger political subdivisions)—are either briefly summarized (e. g., the apprenticeship tax) or entirely omitted (book II, arts. 243-350 of the code).

The text of the code here translated was published as an appendix to the ordinance (*décret*) of the French Government of December 27, 1934, providing for the codification of all laws relating to direct taxes. The ordinance, with the code, was printed in the *Journal Officiel* of December 29, 1934. The editor incorporated in the translation all amendments and modifications of the original text since December 1934. Major modifications of the original code were affected (1) by the ordinances issued by virtue of the extraordinary powers conferred on the French Government by the act of June 8, 1935, and published in the *Journal Officiel* of October 31, November 3, 5, and 13, 1935; (2) by the act of December 31, 1936, concerning fiscal reform, published in the *Journal Officiel* of January 1, 1937; (3) by the ordinance of July 8, 1937, issued by virtue of the extraordinary powers conferred on the French Government by the act of June 30, 1937, and published in the *Journal Officiel* of July 9, 1937; (4) by the Budget Law of December 31, 1937, published in the *Journal Officiel* of January 1, 1938; and (5) by the ordinance of June 14, June 17, and April 17, 1938, published in the *Journal Officiel*, 1938.

Part II of this report contains the English textual translation of the code of securities and investments (*codé des valeurs mobilières*) insofar as it relates to the tax on income from securities and investments. Sections of the code dealing with other taxes affecting the issuance of, or dealing in, securities have been omitted.

The text of the code here translated was published as an appendix to the ordinance of the French Government of December 21, 1934, providing for the codification of all fiscal laws relating to capital

investments. The ordinance, together with the code, was printed in the *Journal Officiel* of December 22, 1934. As in the case of the code of direct taxes, the editor incorporated in the translation all amendments and modifications of the original text since December 1934. These modifications were contained in the ordinances above indicated.

The translation follows the French text as closely as possible except where, for the sake of clarity, it seemed desirable to give a liberal rather than a purely literal translation. French technical terms are indicated in parentheses; where, for the sake of clarity, words not in the French text had to be added to the translation, such additions are indicated by brackets.

### COMPLEXITY OF FRENCH TAX SYSTEM

Due to the variety and the great number of direct and indirect taxes, gradually introduced in the course of a century, the French tax laws constitute one of the most complicated fiscal systems of the world. The complexity of the French tax system is further aggravated by the fact that fiscal legislation was passed, in most instances, under the stress of immediate exigencies to find new sources of revenue and without much consideration for fitting any new tax measure into the existing pattern. The chronic necessity of satisfying budgetary needs resulted in the introduction of new taxes, frequent amendments to, and changes in, the basic rates of the already existing taxes. The following remarks are intended to sketch briefly the evolution of the French tax system and to indicate the place and background of the income taxes therein. These remarks are based, partly, on a careful study of the French tax laws and the literature relating thereto and partly on interviews which the editor had with French tax experts and officials of the French tax administration.

### HISTORICAL SURVEY

Although France had a fairly elaborate tax system before 1789, such early system need not be considered, since it, together with all other prerevolutionary legal institutions, was completely swept away by the Revolution.

In the first years following the Revolution four direct taxes were introduced, two of which were income taxes:

(1) The land tax (*contribution foncière*), a tax of 16 percent on income from lands and buildings (act of November 23, 1790).

(2) The personal income tax (*contribution personnelle mobilière*), a tax of 5 percent on the individual income (act of January 13, 1791).

(3) The so-called "patente" tax (*patente*), a proportional tax based on the rental value of business premises (act of March 2, 1791).

(4) The windows and door tax (*l'impôt des portes et fenêtres*), (act of 4 frim. an VII (November 26, 1799)).

These taxes, called "*les quatre vieilles*," remained the basis of French direct taxation for over a century. They are characterized by the fact that they were all assessed more or less arbitrarily, on the basis of external evidence, without regard to capacity to pay; e. g., buildings were taxed according to the number of doors and windows, irrespective of rental value. The taxpayer was not required to make any declaration disclosing the sources of his revenue or the amount of his income.

It soon became evident that the above four taxes did not yield sufficient revenue to meet the needs of the French Treasury, and, in



the first half of the nineteenth century, a number of indirect taxes (stamp duties, recording taxes (enregistrement), tax on beverages, sugar, salt, playing cards, etc.) were successively established. In a study of the income taxes, these indirect taxes need not be considered except to indicate their existence as part of the whole fiscal system. In this connection it may be noted that while in the first years of the nineteenth century about 64 percent of the tax revenue of the French Treasury came from direct taxes (the quatre vieilles), in 1851 the direct taxes represented only 24 percent; and in 1900, somewhat less than 20 percent of such revenue. Through various fiscal reforms—particularly through the introduction of a comprehensive income-tax system in 1914 and 1917 (see *infra*)—the balance was subsequently improved in favor of revenue from direct taxes: thus, in 1936, 47 percent of the total tax revenue came from direct taxes.

The first major reform in the field of taxation was the introduction, in 1872, of a tax on income from certain types of securities and investments (*l'impôt sur le revenu des valeurs mobilières*), i. e., on dividends, interest, and other yields of stocks and bonds of all French corporations and partnerships and of certain categories of foreign corporations (act of June 29, 1872). Although this was a tax on income and clearly distinguishable from other indirect taxes imposed on dealings in stocks and bonds, such as the stamp tax (*droit de timbre*) and the transfer tax (*droit de transmission*), it occupies a peculiar position in the French tax system. Its administration was entrusted to the Administration of Indirect Taxes (*Service de l'Enregistrement*); and although later it was included among the "scheduled" taxes (*impôts cédulaires*) imposed on distinct categories of income (see *infra*), it continues to be administered as an indirect tax, while all the other income taxes are assessed and collected by the Administration of Direct Taxes (*Administration des Contributions Directes*). The tax on income from securities is collected by the bank or corporation before paying interest or dividends to the owner of the security; the bank or corporation withholds the tax from the amount paid to the owner.

Despite its peculiar technical position, it has been deemed desirable to include in this report a translation of the law governing the taxation of income from securities and investments because this tax is obviously an integral part of the French income-tax system. Moreover, it is, perhaps, more than any other of the French taxes, of particular interest to the general public, since it affects foreign corporations and partnerships doing business in France although their securities may not be quoted or circulated there.<sup>1</sup> The text of this law constitutes part II of this report, and it is preceded by comments.

## INCOME TAXES

It took a half century to overcome opposition to a comprehensive reform of the income-tax system. Between the introduction of the tax on income from securities in 1872 and 1914, more than 200 bills were presented to Parliament on this subject. In 1914 a statute creating a general income tax (*l'impôt général sur le revenu*) was

<sup>1</sup> The limited application of the act of June 29, 1872, was extended, by the act of March 29, 1914, to income from dividends, interest, and other yields of stocks and bonds of certain categories of foreign corporations not included in the 1872 statute and also to yields of securities issued by foreign governments. A further extension of this tax was effected by the act of July 31, 1917, which imposed this tax on income from other forms of capital investments, not covered by the 2 earlier statutes, namely, income from credits, deposits, and surety bonds. The act of July 31, 1917, listed the tax on income from securities and investments as one of the several "scheduled" income taxes created by the act, but left its administration in the hands of the Administration of Indirect Taxes.

passed (act of July 15, 1914). The reform was completed in 1917, by abolishing the old direct taxes (*quatre vieilles*) with the exception of the land tax<sup>2</sup> as national taxes<sup>3</sup> and by creating a number of "scheduled" taxes (*impôts cédulaires*) on distinct categories of income, some of which were theretofore exempt from tax, e. g., income from salaries and wages (act of July 31, 1917).

The act of July 31, 1917, provided for the following "scheduled" income taxes:

(1) Tax on industrial and commercial profits (*impôt sur les bénéfices industriels et commerciaux*);

(2) Tax on agricultural profits (*impôt sur les bénéfices de l'exploitation agricole*);

(3) Tax on public and private salaries, allowances and remuneration, wages, pensions, and life annuities (*impôt sur les traitements publics et privés, les indemnités et émoluments, les salaires, les pensions, et les rentes viagères*);

(4) Tax on profits from noncommercial occupations (*impôt sur les bénéfices des professions noncommerciales*);

(5) Tax on income from securities and investments (*impôt sur le revenu des créances, dépôts et cautionnements*).<sup>4</sup>

Superimposed on these scheduled taxes is the general income tax created by the act of July 15, 1914. Despite numerous amendments and modifications in the course of the past 20 years, these taxes constitute at present the French income tax system.

#### CODIFICATION

Following the war, the instability of French currency, the economic crisis, coupled with constantly increasing government expenditures and the resulting budgetary difficulties, necessitated frequent modification of the tax laws. The changes rendered the burden of taxes more onerous for the taxpayer, since these changes in most instances represented an increase in rates. In addition, they complicated the task of the administration by introducing new taxes and by constantly changing the old ones. In order to clarify a hopelessly confused series of laws, the Government decided, in 1926, to codify all tax laws. However, codification was not accomplished until 1934, following the economic crisis (which reached France only in 1932), at which time a thorough revamping of the whole fiscal system appeared imperative. This was accomplished, partly, by repealing a great number of old, out-dated taxes and, partly, by consolidating the existing taxes. Yet, even at present there are some 100 different kinds of taxes collected in France by the two administrations of direct and indirect taxes. (See table B of the Budget Law for 1937.)

At present, all French tax laws are compiled in the following eight fiscal codes:

(1) Code of direct and assimilated taxes (*code des impôts directs et taxes assimilées*);

(2) Code of registry taxes (*code de l'enregistrement*);

(3) Code of stamp duties (*code du timbre*);

(4) Code of securities and investments (*code fiscal des valeurs mobilières*) containing, *inter alia*, the tax on income from securities;

<sup>2</sup> The land tax was substantially revised by the act of March 29, 1914.

<sup>3</sup> These old taxes were retained to serve as the basis of local taxes collected by the National Government for the benefit of municipalities and larger political subdivisions (*départements*). The door and window tax was altogether repealed by the act of July 19, 1925.

<sup>4</sup> As indicated *supra*, note 1, this merely extended the tax on income from securities, already created by the act of June 29, 1872, to income from other types of capital investments not covered by the earlier statute.

(5) Code of customs duties (code des douanes);

(6) Code of indirect taxes (code des contributions indirectes) containing taxes on consumption, amusement taxes, etc.;

(7) Code of direct taxes applicable to Alsace-Lorraine (code des impôts directs et taxes assimilées applicables dans les départements du Bas-Rhin, du Haut-Rhin et de la Moselle);

(8) Code of taxes on production (codes de taxes à la production).

With the exception of the code of taxes on production which was promulgated on April 29, 1937, all the other codes were promulgated during the last days of December 1934. Although numerous changes were made in the tax laws since the codes were issued, no revised text of the codes has been published up to the present. Therefore, persons interested in the present status of any of the tax laws must consult, in addition to the codes, the various amending statutes and decrees enacted since the beginning of 1935.

As far as direct taxes are concerned, the income taxes constitute beyond doubt the most important part of the French tax system because of their yield and the number of taxpayers affected.<sup>5</sup>

### ADMINISTRATION OF FRENCH TAXES

The technical distinction drawn between direct and indirect taxes is essential to the understanding of French tax administration. The administrative procedure and the rules governing litigation relating to direct taxes on the one hand and indirect taxes on the other hand are fundamentally different. The distinction is based on a purely technical fact: taxes assessed and collected by means of the so-called tax rolls (*rôle*) are direct taxes; the absence of rolls indicates that an indirect tax is involved.

All French income taxes—with the exception of the tax on income from securities and investments—are assessed and collected by means of tax rolls and are, therefore, in the category of direct taxes.

(A) The administration of direct taxes which deals with all income taxes (with the exception of the tax on income from securities) has two distinct agencies which successively carry out:

(1) Assessment;

(2) Collection of taxes.

*Assessment* of taxes is entrusted to the assessors (*contrôleurs*) on the basis of declarations made by the taxpayer; arbitrary assessment by the tax administration (*taxation d'office*) is permissible only as a penalty.<sup>6</sup>

(B) The administration of indirect taxes has no separate agencies for assessment and collection of taxes; both of these functions are entrusted to a single organ.<sup>7</sup> However, there is a division according to the category of taxes:

(1) The administration of registry taxes and stamp duties (*administration de l'enregistrement et du timbre*) assesses and collects the tax

<sup>5</sup> For information in this respect see *Renseignements statistiques relatifs aux impôts directs*, published from time to time by the Direction générale des contributions directes.

<sup>6</sup> It has been noted above that prior to the introduction of the present income-tax system in 1914-17, direct taxes were assessed more or less arbitrarily on the basis of external signs; no cooperation between the tax administration and the taxpayer was required and, although a taxpayer may have felt that he was unjustly and arbitrarily assessed (i. e., without regard to his real income), at least his privacy was deemed respected. When the new income-tax system came into operation, the taxpayers resented the requirement of disclosing their income to the agents of the Government, and, perhaps even more, they resented the agents' power to control the information supplied in the tax returns. Opposition to this system, which has been regarded as an invasion of the right of privacy, explains partly the unwillingness of French taxpayers to cooperate with the agents of the tax administration.

<sup>7</sup> Many of the indirect taxes consist of a fixed rate or fee so that in fact the operation of "assessment" is a purely mechanical one.



on income from securities and investments, recording fees (*droit d'enregistrement*), stamp duties (*droit du timbre*), mortgage fees (*droit d'hypothèque*) and the stock exchange tax (*impôt sur les opérations de bourse*);

(2) The administration of indirect taxes (*administration des contributions indirectes*) assesses and collects the so-called consumption taxes (*taxes de consommation*) e. g., on beverages, sugar, etc., and some special taxes such as processing taxes (*taxe à la production*);

(3) The customs office (*administration des douanes*) assesses and collects customs duties (*droits de douane*).

It is interesting to note that the administration of direct taxes costs infinitely less than that of the indirect taxes. While the overhead of direct taxes has been in recent years, on the average, about 3 percent of the gross revenue, that of the indirect taxes varied between 17 percent and 50 percent.

### TAX LITIGATION

Another important difference between direct and indirect taxes lies in the jurisdiction over litigation.

In suits relating to direct taxes (that is to say, all income taxes with the exception of the tax on income from securities and investments) the administrative courts—the *conseil de préfecture*, or departmental administrative court and, on appeal, the *Conseil d'État*—have jurisdiction.

On the other hand, the law courts have jurisdiction over litigation relating to all indirect taxes.<sup>8</sup>

### COMMENTS ON THE VARIOUS INCOME TAXES<sup>9</sup>

I. *Industrial profit tax*.—The French consider this the most productive and, therefore, the most important of their income taxes. The following observations concerning the characteristics of this tax may be of general interest:

1. The tax is payable on profits from any industry or trade conducted in France. In other words, foreigners engaging in business in France are liable for the tax in the same way as nationals (art. 2).

2. The law makes a distinction between corporations (*sociétés anonymes*) and limited liability companies (*sociétés à responsabilité limitée*), on the one hand, and individuals and partnerships on the other hand. Corporations and limited liability companies are subject to this tax irrespective of the nature of their activity; individuals and partnerships only if they are in fact engaged in commerce or industry<sup>10</sup> (art. 3). Thus French law imposes a greater tax burden on corporations than on individual enterprise. A corporation engaged in farming nevertheless must pay, merely because it is a corporation, the tax on industrial profits, whereas an individual engaged in farming is required to pay only the considerably lighter tax on agricultural profit. Moreover, the personal status of the individual is taken into consideration in that he is allowed to make deductions

<sup>8</sup> As to the French court system in general, and the respective functions of law and administrative courts, see Deák and Rheinstein, *The Machinery of Law Administration in France and Germany* (1936), 84 U. of Pa. L. Rev. 846.

<sup>9</sup> Comments on the tax on income from securities appear at the beginning of part II, *infra*, p. 85.

<sup>10</sup> Although the Code of Commerce contains a definition of "acts of commerce" (arts. 632 ff.), i. e., the type of activity which may properly be regarded as commerce, this definition is not conclusive on the tax administration which determines the liability of individuals or partnerships for this tax in the light of the nature of their activity (e. g., a person conducting a business which is not "commerce" within the definition of the Code of Commerce may nevertheless be required to pay this tax on the basis of the fact that he is inscribed in the register of commerce).



on account of dependents (art. 22); this is, of course, not available to corporations.<sup>11</sup>

3. Interesting is the side-by-side existence of two methods of assessment: assessment on the basis of an arbitrary lump sum estimate (arts. 13-15; the arbitrary assessment was characteristic of the French direct-tax system prior to the reforms of 1914-17) and assessment on the basis of actual net income (arts. 16 ff.). As originally enacted in 1917, this tax was assessed arbitrarily on the basis of estimated turn-over. In 1920, the law was amended to provide for assessment on the basis of actual net profits (act of July 31, 1920). In 1934, the arbitrary assessment was reintroduced for small enterprises which may now choose either method.<sup>12</sup>

4. Concerning the determination of the net income, the following should be noted:

a. Only amounts written off for actual depreciation (*amortissement*) may be deducted (art. 7); thus the French business man is precluded from lowering his taxable income by reporting as a deductible charge fictitious depreciation;

b. Contributions to social insurance funds by employers are deductible as normal expenses of an enterprise.

There is in addition the interesting provision which permits a charge of losses suffered in any one year against the profits realized in successive years (art. 12).

5. Exemptions and rate differential are granted either in view of the size of the business or of the social objective of the enterprise. Artisans and home-workers, although required to pay the tax, are assessed on the basis of the lower rate applicable to the tax on income from salaries and wages (art. 23). The tax rate is substantially reduced for individuals and partnerships whose net profit is small (art. 22). Finally, certain enterprises, such as cooperatives, low-cost housing societies, etc., are completely exempt from the tax (art. 4).

6. On the other hand, certain enterprises are subject to more onerous burdens. As already pointed out, *supra*, corporations and limited liability companies are required to pay this tax merely by reason of the form of organization, irrespective of the nature of their activity. They are subject, since 1937, to a tax of 4 percent on undistributed profits (art. 26c). Moreover, banks and insurance companies are required to pay the tax on their total income from whatever source derived (art. 9). Department stores whose annual turn-over of retail sales, and banks and insurance companies whose total yearly business, exceeds 1,000,000 francs, must pay, in addition to the industrial profit tax, a special turn-over tax (arts. 27 ff.). Finally, enterprises which work for or supply the Army, the Navy, or the air forces, or which derive their income primarily from working

<sup>11</sup> A compromise solution has been adopted in the case of partnerships which, although juristic persons in the contemplation of French law, are nevertheless regarded as associations of persons rather than associations of capital, like corporations and limited liability companies. Simple partnerships (*société en nom collectif*) are completely assimilated to individuals, and the tax is assessed on each of the partners individually. In case of limited partnerships (*sociétés en commandite simple*) the active partners (*commandités*) are treated as individuals and the tax is assessed on each of them personally, while the tax due from silent partners (*commanditaires*) i. e., those who merely contribute to the capital but do not actively participate in the conduct of the business—is assessed on the partnership as though it were a corporation. This is one of the several instances indicating that the French fiscal system is, as a rule, more lenient toward income derived from labor than toward income derived from capital.

<sup>12</sup> The reintroduction of the method of arbitrary assessment was due to the desire of the Government to lighten the burden of the small business man whose turn-over was not great enough to justify the labor and expenditure necessary for accurate bookkeeping of income and deductible expenses. At the same time, the task of the tax administration was greatly simplified by the elimination of the necessity of checking and verifying the detailed declarations filed by such small enterprises.

for or supplying the national or local governments or public utilities, are subject to special taxes, insofar as profits derived from such transactions are concerned.<sup>13</sup>

7. Noteworthy is the conciliation procedure available for the settlement of controversies relating to the assessment of this tax (arts. 14, 18). The procedure enables taxpayers to resort to an advisory commission, composed of representatives of professional groups and taxpayers' interests, before engaging in litigation.

II. *The agricultural profit tax* is regarded in France as the least important of French income taxes.<sup>14</sup> A comparison between the rigorous provisions of the industrial profit tax and the leniency characterizing the agricultural profit tax clearly indicates that industry and trade in France carry a far heavier tax burden than agriculture. This tax will also be of least interest to foreigners, who do not commonly engage in agricultural pursuits in a foreign country.

1. The tax is assessed on the person cultivating the land and not on the owner (art. 55), though the owner may be held liable for payment of the tax if he fails to inform the tax administration that he leased his land (art. 57). When land is cultivated by an association or by a joint venture, the tax is assessed separately in the name of each of the associates, every one of whom may claim the various deductions on account of status, family and, also, the exempt minima (art. 55).

2. There is no definition in French law of "agriculture;" consequently, the tax administration has greater freedom in determining the type of activity producing income subject to this tax than in the case of the industrial profit tax where the Code of Commerce definition of "acts of commerce" serves at least as a guide. In general, the tax administration regards income received from the cultivation of the soil including stock-farming, and from the sale of its products, as subject to the agricultural profit tax.

3. Although the code allows assessment on the basis of actual net profits also (art. 53), assessment is generally made on the basis of the rental value of the land (cadastral revenue) which is in itself an estimated value for the purpose of the land register (art. 52). The reason why assessment on the basis of estimated profits is generally followed in the case of this tax is that farmers are not required by law—as are merchants and industrialists—to keep books and accounts. As in the case of the industrial profit tax, taxpayers may bring disputes with the tax administration concerning assessment before conciliation commissions (art. 53b).

<sup>13</sup> The special tax on enterprises working for national defense was introduced by executive decree of July 16, 1935, and has been incorporated in the Code of Direct Taxes by Ordinance of the Minister of Finance of October 17, 1936 (Journal Officiel, November 7, 1936). See *infra*, art. 26b of the code.

The special tax on enterprises working for or supplying the Government was introduced originally as a temporary tax, for 1935 and 1936, only, by executive decree of August 8, 1935 (Journal Officiel, August 9, 1935), issued by virtue of extraordinary powers conferred on the Government by the act of June 8, 1935. It provided that a tax of 20 percent in 1935, and of 10 percent in 1936, shall be paid by enterprises who derive at least one-fourth of their income from contracts concluded with national or local governments and the trunk railroad companies (les grands réseaux de chemin de fer d'intérêt général). Exempt from this tax is such part of income as is derived from contracts concluded with the Army or Navy Departments which is subject to the special tax established by the decree of July 16, 1935 (*supra*). The tax was imposed further, by an amendment of October 30, 1935 (Journal Officiel, October 31, 1935), on contracts concluded with the administrations of French colonies, protectorates, and mandated territories. The act of December 31, 1936, concerning Fiscal Reforms, art. 17 (Journal Officiel, January 1, 1937), continued this tax for 1937, at the rate of 20 percent. Finally, the executive decree of July 8, 1937, concerning Fiscal Reforms, art. 49 (Journal Officiel, annex, No. 306, July 9, 1937), made this tax permanent, as of 1938, at the rate of 8 percent. It has not yet been incorporated into the text of the code.

<sup>14</sup> The number of taxpayers subject to this tax fell from 633,000 in 1929, to 92,000 in 1935; the revenue from this tax shrank, during these same years, from 182,000,000 to 14,000,000 francs.



4. As in the case of the industrial profit tax, deficits suffered in any one year may be reported against income received in successive years (art. 54).

5. The tax is assessed and collected at the taxpayer's residence and not at the place where he cultivates the land (art. 55).

6. It is to be noted that the tax is assessed on the basis of the status of the cultivation on January 1 of the year preceding the year of assessment (art. 55).

III and IV. *Tax on income from salaries and wages and tax on income from noncommercial occupations.*—Both these taxes seeking to reach income derived from personal labor and not falling in the category of either industrial or agricultural occupations may be conveniently discussed together. The difficulties of subjecting to uniform rules the incomes of a salaried government employee, of a wage-earning laborer, of a lawyer or physician from fees, or the income of a writer or an inventor from copyright or patent royalties, are too obvious to need discussion. The difficulties are due, partly, to the presence or absence of economic stability in the various groups deriving income from personal labor; partly to administrative problems in locating and ascertaining taxable income. In order to cope with these difficulties, separate laws were enacted to reach, on the one hand, income from salaries, wages, and life annuities, and, on the other hand, income from noncommercial occupations. Both laws discriminate in favor of resident taxpayers as against taxpayers residing abroad.

The tax on income from noncommercial occupations is more rigorous than the tax on income from salaries and wages. This discrimination can be explained by the fact that persons receiving a salary or wages, either from the Government or from private enterprise, can in no way conceal their income and thus escape paying tax. In fact, their income is reported not only by the taxpayers themselves, but also by the institutions or the enterprises which pay their salary, life-annuity, royalty, etc.

In the case of lawyers' or physicians' fees or artists' honoraria, where income is received from a great number of clients, unknown to and undeterminable by the tax administration, and where the amount of the fee is determined, perhaps in each instance, by the recipient according to what the traffic will bear, the concealment of at least part of the income is comparatively easy. The respective yields of these two taxes seem to justify the greater leniency with which salaried and wage-earning taxpayers are treated.<sup>15</sup>

#### A. TAX ON INCOME FROM SALARIES, WAGES, ETC.

1. By its nature this tax can affect individuals only. It is due from all persons who receive salaries from public authorities or private enterprises, wages, remuneration, pensions, or life annuities (art. 60) in excess of the tax-exempt minimum (art. 65). Certain types of incomes falling in the designated categories (e. g., veterans' pensions, workmen's compensation, life annuities paid to victims of industrial accidents), are exempt from the tax (art. 61).

<sup>15</sup> In 1936, about 70,000 taxpayers reported roughly 2 billion francs income subject to the tax on noncommercial occupations, while over 2,000,000 taxpayers reported over 40 billion francs of income falling under the tax on income from salaries and wages. In the opinion of French tax experts, the excessive number of French civil servants does not sufficiently explain this tremendous discrepancy.

2. As already indicated a declaration is required not only from the taxpayer but also from his employer (art. 67-70) and failure to do so subjects the employer to heavy penalties (art. 71).

3. As in the case of the industrial-profit tax, this tax is payable on net income only. The taxpayer is permitted to deduct: (a) Sums retained or paid from his salary for retirement pension or social insurance funds; (b) income taxes paid in the preceding year; (c) professional expenses which are arbitrarily estimated at 10 percent of the gross income after deducting therefrom payments to pension and insurance funds. Apart from exceptional cases, the deduction on account of professional expenses may not exceed 20,000 francs (art. 64). It may be noted that artisans and homeworkers, though subject to the industrial-profit tax by reason of their profession, nevertheless benefit by the reduced tax rate applicable to income from salaries and wages (art. 23).

4. The tax is assessed and collected at the taxpayer's domicile and not at the place where the income is received (art. 62).

5. The liberal treatment of taxpayers in this category is evidenced by the reduced tax rate. While the general tax rate applicable to the other scheduled income taxes is 12 percent (14 percent for 1938), the rate applicable to income from salaries and wages is reduced to half, i. e., 6 percent (7 percent for 1938) (art. 137). Moreover, deductions allowed on account of dependents are much more favorable than in the case of the other scheduled income taxes (art. 66; cf. art. 102).

6. Different rules are applicable to the assessment and collection of this tax in the case of taxpayers domiciled abroad. No tax returns are required for such taxpayers. The tax must be withheld by the employer or organization paying the salary or the pension at the time of payment and must be paid into the Treasury each month (arts. 75-76). Failure to retain the tax or to pay it into the Treasury is penalized, and the employer remains liable for the tax (art. 76). In determining taxable net income, an arbitrarily estimated deduction is provided for instead of the deductions allowed for resident taxpayers. This deduction is 20 percent in the case of salaries and wages, and 10 percent in the case of pensions and life annuities (art. 75).

#### B. TAX ON INCOME FROM NONCOMMERCIAL OCCUPATIONS

1. The code ranks persons subject to this tax in three categories: (a) The liberal professions; (b) office holders (i. e., other than Government employees); (c) persons engaged in lucrative professions whose income is not subject to any other of the income taxes (art. 78). While some of the occupations falling into the third group are indicated, the code does not specify the various occupations which fall into the first two groups, leaving it to the tax administration to decide disputed questions as they arise, subject to review by the administrative courts. In general, the following professions are considered to fall in the first two categories for the purpose of taxation:

(a) In the group of liberal professions: Physicians, barristers, writers, artists (painters, sculptors, musicians), teachers of private schools;

(b) In the group of office holders: Counsels attached to the Supreme Court (Cour de Cassation) and to the Supreme Administrative Court (Conseil d'Etat), notaries, solicitors, attorneys practicing before the commercial courts, sheriffs, official appraisers, etc.

2. While only individuals can be subject to the tax on income from salaries, this tax may affect certain juristic persons, i. e., partnerships or joint ventures. (As pointed out above, corporations and limited liability companies are subject to the industrial-profits tax irrespective of the nature of their activity and solely by reason of their form of organization). Such juristic persons, which are associations of persons in contradistinction to associations of capital, enjoy the preferential method of assessment provided for in the industrial-profit tax for simple and limited partnerships (art. 82; cf. art. 21).

3. Unlike the tax on income from salaries, which requires information concerning salaries, etc., by the employer, in addition to the taxpayer's return, this tax is assessed solely on the basis of returns filed by the recipient of the income (art. 84). Exceptions to this rule are persons receiving income from enterprises distinguished from individuals and the recipients of copyright or patent royalties (cf. arts. 67-70).

4. Differences arising concerning the amount of taxable income are submitted to a commission (arts. 87-88). It is to be noted that the composition of this commission is different from that provided for in the industrial-profit tax (cf. art. 15); moreover, recourse to this commission is compulsory and it has power to decide the issue, while the role of the commission provided for in the industrial-profit tax is advisory.

5. Taxable net income is determined, as in the case of the industrial-profit tax, by deducting from the gross income expenses incurred in the exercise of the profession (art. 79). As in the case of the industrial-profit tax and the agricultural-profit tax, a deficit suffered in any one year may be charged against the profits of successive fiscal years (art. 80). A special method of determining taxable net income on the basis of a 3-yearly average is available to persons deriving their income from literary, scientific, or artistic production (art. 81).

6. The tax is assessed and collected at the place where the taxpayer exercises his profession (art. 82).

7. As in the case of the tax on income from salaries, different treatment is provided for taxpayers who do not have a permanent professional establishment in France. The tax must be withheld and paid into the Treasury by the person who pays the taxable income. The net income is determined by an arbitrarily estimated 20 percent deduction (arts. 95-97). Provisions are made for the taxation of visiting alien artists (art. 98).

V. *The general income tax* is superimposed on the other taxes on various categories of income, including income from securities and investments and all income received from abroad. It is applicable only to individuals residing in France (art. 105). Juristic persons are not subject to the general-income tax. Subject to certain limitations, the head of the family is assessed for this tax with respect to income received by members of his family (art. 106). This method of assessment actually discriminates in favor of a taxpayer who is single, as against one who is head of a family, contrary to usual French fiscal policy which, as a rule, seeks to lighten the burden of married people. For this reason, this provision of the general income-tax law has been frequently criticized.

(1) The tax is levied on the aggregate net income, from whatever source derived, including income received in kind (art. 109, 119).



The aggregate net income is determined by totalling the net income received from various sources: Income from buildings and lands; from securities and investments; from industry or trade; from farming; from wages, salaries, pensions; from noncommercial occupations and all income received from abroad (art. 119). Certain revenues need not be taken into account in determining the aggregate net income (art. 110). The taxable net income is determined by deducting, from the aggregate net income, allowable charges and expenses, namely: Interests on debts; annuities paid under a legal obligation and without consideration; direct taxes paid in the preceding year; and contributions to social insurance and veterans' pension funds (art. 109). The tax is assessed, however, only after the tax-exempt minimum (10,000 francs) and deductions allowed by virtue of the taxpayer's status and for dependents have been subtracted from the taxable net income (art. 117).

(2) Noteworthy is the difference between deductions allowed on account of dependents in the case of the general-income tax on the one hand and in the case of the scheduled income taxes on the other hand.

In the case of the general-income tax, the sums allowed are deducted from the taxable net income itself (5,000 francs for married taxpayers; 5,000 francs for each of the first two children, 10,000 francs for the third, and 15,000 francs for the fourth and each subsequent child; see art. 115).

In the case of the scheduled income taxes, it is the amount of the tax itself which is reduced (see arts. 22, 56, 83, and 102 with respect to the taxes on industrial profits, agricultural profits and income from non-commercial occupations, and article 66 with respect to income from salaries and wages. As already indicated, *supra*, persons subject to the scheduled tax on income from salaries and wages enjoy a more favorable treatment with respect to tax reduction on account of dependents than persons subject to the other scheduled income taxes).

It may be noted, moreover, that a deduction on account of married status is allowed only with respect to the general-income tax; the scheduled taxes on distinct categories of income make allowance for dependent children only (art. 116).

(3) Subject to certain limitations, the amount of the general-income tax computed on taxable net income is increased by 30 percent if the taxpayer is over 30 years and is unmarried, widowed, or divorced and has no dependent children; the increase is 15 percent if a taxpayer, married for more than 2 years, has no dependent children (art. 118).

(4) As in the case of the scheduled income taxes, the general-income tax is assessed on the basis of returns filed by the taxpayer. It is interesting to note that the duty to file such a return is not based solely on the presence of an aggregate net income in excess of the exempt minimum of 10,000 francs (art. 107), but also arises from certain external evidences of wealth, i. e., the ownership of an automobile or a yacht, the possession of more than one residence, or rental value of the taxpayer's dwelling exceeding certain minima (art. 119). Reliance on external evidences of wealth is further indicated by the requirement that the return must state, in addition to the income figures, the rental value of the taxpayer's residence, the ownership of passenger cars and the number of domestic servants (art. 121).

All persons domiciled or residing in France who own movable or immovable property abroad must file a return, irrespective of whether or not they are subject to the general-income tax (art. 124).



In addition to the return concerning income, the taxpayer is required to file a separate declaration setting forth his family status on the basis of which deductions are allowed both with respect to the general income tax and the other scheduled taxes (art. 120).

(5) While persons residing in France, whether nationals or aliens, are assessed for general income tax purposes on the basis of their actual net income, all aliens, whether domiciled or resident in France, and all nationals domiciled abroad but having a French residence, are assessed on the basis of an arbitrarily estimated income. Their income is estimated at a sum five times the rental value of their dwelling in France. If such persons receive income from property or business situated, or from a profession carried on, in France, which income is larger than the arbitrarily estimated revenue, the tax is assessed on actual income (art. 114).

Special rules are applicable to the assessment of the tax in the case of death (art. 134).

(6) The tax is assessed and collected at the taxpayer's residence (art. 108).

(7) While the other scheduled taxes provide a flat rate on taxable income in excess of the exempt minima (cf. arts. 22, 56, 65, 83)—excepting, however, the special turn-over tax which has a graduated rate (art. 32)—the rate of the general-income tax is graduated and increases from 1 percent on the first 10,000 francs of taxable income to 40 percent on taxable income exceeding 1,320,000 francs (art. 117).

It should be remembered, however, that increase of the tax burden more or less in proportion to wealth has been accomplished, at least with respect to the industrial-profit tax, by methods other than a graduated rate, i. e., by subjecting large scale enterprise to a more rigorous system of assessment, by imposing additional taxes on them, and by increasing the tax rate in the case of enterprises, such as public utilities, enjoying a privileged position.

Attention may be called, in this connection, to the fact that deductions allowable on account of dependents are reduced in inverse proportion to the income bracket in case of both the general-income tax and the scheduled income taxes (see art. 115 with respect to the general-income tax; art. 102, with respect to the taxes on industrial profits, on agricultural profits and on income from noncommercial occupations; and art. 66 with respect to the tax on income from salaries and wages).

VI and VII. *The tax on income from buildings and lands* is the only one of the four original direct taxes established during the revolution which was retained as a national income tax. For almost a century the tax was levied on real property in general. In 1882, a distinction between buildings and lands was introduced and different rules were provided for each of these two categories of real property. It may be noted that this distinction is largely theoretical and technical. A 1917 amendment provided for deductions on account of dependents as in the case of the other scheduled income taxes, but this amendment was repealed in 1934, and at present taxpayers may not claim such deductions with respect to the tax on income from either buildings or lands.

(1) Taxes both on buildings and lands are assessed on the basis of arbitrarily estimated income. This income is the so-called "cadastral revenue," i. e. the rental value of the property shown in the land register (cadastre). The valuation of real property in France

is an extremely complicated, cumbersome, and not wholly satisfactory process which need not be discussed here. The only interesting fact to be noted is that the local authorities, in whose hands the upkeep of the land register is decentralized, cooperate with the officials of the national tax administration in the assessment of taxes on income from buildings and lands.

(2) Certain categories of real property are exempt from the land taxes either permanently or temporarily:

(a) Highways (national or local), public buildings, public utilities (gas and electric works, port equipment), buildings devoted to religious purposes and outbuildings used for agricultural exploitation enjoy permanent exemption from the tax (arts. 159, 185);

(b) Temporary exemptions, of varying durations, are granted to new buildings, dwellings devoted to low-cost housing, and reforested land (arts. 160-170, 187).

(3) The tax is assessed on the net income which is determined by deducting from the cadastral revenue an arbitrarily estimated sum for charges and expenses. In the case of lands, the allowable deduction is 20 percent of the cadastral revenue (art. 188); in the case of buildings, the allowable deduction is 25 percent with respect to residential houses and 40 percent with respect to industrial establishments (art. 171). In case of loss of the estimated income or part thereof, the taxpayer is entitled to claim reduction or remission of the tax (arts. 183, 218-221).

(4) The tax is assessed, as a rule, on the owner of the real property (arts. 181, 213); in case the land or building is held by a life-tenant or on a long term lease, the tax may be assessed on the latter. The tax is assessed and collected at the place where the real property is situated (art. 222). The tax, as in the case of the scheduled income taxes, is at a flat rate of 12 percent (14 percent for 1938), irrespective of the amount of net taxable income.

## PART I

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# GENERAL CODE OF DIRECT TAXES AND TAXES ASSIMILATED THERETO

*(Code Général des impôts directs et taxes assimilées)*

# **BOOK I. DIRECT TAXES AND TAXES ASSIMILATED THERETO COLLECTED FOR THE BENEFIT OF THE STATE**

## **TITLE I. TAX ON INDUSTRIAL AND COMMERCIAL PROFITS AND ACCESSORY TAXES**

### **CHAPTER I. TAX ON INDUSTRIAL AND COMMERCIAL PROFITS (IMPÔT SUR LES BÉNÉFICES INDUSTRIELS ET COMMERCIAUX)**

#### **SECTION I. TAXABLE ENTERPRISES**

ART. 1. There shall be levied a yearly tax upon the profits of commercial, industrial, and handicraft enterprises.

The same tax shall be levied upon the profits realized by license holders of mines or by the leaseholders or subleaseholders of mining concessions, by the holders of permits to work mines, by the explorers of oil and gas wells who cease to be subject to the proportional quit-rents (*redevances proportionnelles*) provided for by article 4 of the act of April 8, 1910, by article 2 of the act of June 28, 1927, and by article 3 of the act of December 16, 1922.

ART. 2. The tax is due with respect to profits realized by enterprises conducted in France.

ART. 3. Stock companies (*sociétés par actions*) and limited liability companies (*sociétés à responsabilité limitée*) are subject to the tax on industrial and commercial profits whatever their aim may be.

The following also shall be subject to this tax:

1. Consumers' cooperative societies whenever they have a place of business, shop, or store for the sale or delivery of commodities, goods, or merchandise;

2. Cooperative societies of artisans and their federations;

3. Workers' cooperative societies;

4. Individuals and companies engaged, as agents, in the purchase or sale of real property or of business concerns (*fonds de commerce*) and those who regularly purchase such property in their own names with a view to reselling it;

5. Individuals and companies who engage in the development and sale of lands owned by them;

6. Individuals and companies who let commercial or industrial establishments, equipped with chattels or other instrumentalities necessary for their operation, irrespective of whether or not they include all or part of the incorporeal elements of such establishments.

#### **SECTION II. EXEMPTIONS**

ART. 4. The following shall be exempt from the tax:

1. Consumers' cooperative societies which confine their activities to executing the orders of their members and to distributing in their warehouses the commodities, goods, or merchandise thus ordered;

2. Cooperative unions of artisans which have the sole objective of performing credit transactions and which comply with the conditions



laid down by article 3 of the act of December 27, 1923, modified by article 1 of the act of May 1, 1929;

3. Workmen's cooperative banks placed under the control of the Minister of Labor and of the Minister of Finance, the capital of which cannot be subscribed to except by constituent societies or by their members and the loans and extensions of credit of which are made only to such societies;

4. Workers' cooperative credit societies whose bylaws and functions are acknowledged to comply with the provisions of book III of the labor code (code du travail);

5. Cooperative credit societies for industrial arts established and functioning in accordance with article 117 of the act of March 31, 1932, and with the regulations of March 15, 1933;

6. Bonding companies and people's saving banks (banques populaires) whose bylaws and functions are acknowledged to comply with the provisions of the act of March 13, 1917;

7. Mutual maritime credit societies governed by the act of December 4, 1913, and maritime cooperative societies established and functioning in conformity with the act of December 4, 1913, and the ordinance of April 12, 1914;

8. Mutual agricultural credit banks governed by the act of August 5, 1920;

9. Agricultural syndicates and farmers' purchasing and marketing cooperatives and their federations established in accordance with the act of August 5, 1920, amended by the act of August 8, 1935;

10. Low-cost housing societies;

11. Bathing societies (sociétés de bains-douches), workmen's garden societies, and real-estate credit societies established and functioning in conformity with the act of December 5, 1922;

12. Public agencies for low-cost housing;

13. Mutual aid societies and their federations in the fields of production regulated by the act of April 1, 1898;

14. Oil and gas mining concessionaires during 10 years from the date of the concession, provided that such concession was granted before January 1, 1935;

15. Cooperative societies and their federations engaged in the production, processing, conservation, and sale of agricultural products if such societies function in conformity with the acts of August 5, 1920, December 30, 1922, July 12, 1923, and August 8, 1935; the exemption, however, does not apply to transactions executed in a retail shop independent from their principal place of business.

As far as processing is concerned, this exemption shall only apply to products and byproducts which are destined for the nourishment of men or animals or which can be used as raw materials in agriculture or industry.

Federations of farmers and consumers' cooperatives established in pursuance of the act of August 26, 1936, shall enjoy the same exemption.

ART. 5. Profits realized by maritime shipping companies established abroad and derived from the operation of foreign ships are exempt from the tax, provided that the country whose flag such ships fly grants an equivalent exemption to French shipping companies.

The condition of this exemption and the taxes covered thereby shall be fixed by diplomatic agreement with each country. They shall be

incorporated in an ordinance, countersigned by the Minister of Finance and submitted within 3 months to the legislature for ratification.

Profits realized by maritime shipping companies in countries which have agreed to the reciprocal exemption provided for in the preceding paragraph shall be included in the calculation of the tax on industrial and commercial profits due from such enterprises, if such companies have their head offices in France.

### SECTION III. TAXABLE PROFITS

ART. 6. The tax shall be levied each year upon the profits earned during the preceding [calendar] year, or during the period of 12 months the earnings of which were the basis of the last financial statement, if this period does not coincide with the calendar year.

If the financial statement closed in the course of the preceding year covers a period of more or of less than 12 months, the tax shall nevertheless be levied upon the earnings shown by such financial statement.

If no financial statement has been drawn up during any year, the tax payable in the following year shall be levied upon the profits earned since the end of the last period for which a tax was paid or, in case of a new enterprise, from the beginning of operations until December 31. These profits shall be subsequently deducted from those disclosed by the financial statement when finally prepared.

If several financial statements are drawn up successively in the course of a single year, the tax payable in the following year shall be levied upon the aggregate of the earnings disclosed by them.

ART. 7. The taxable profit shall be the total net profit of all transactions of the taxpayer of whatever nature, including capital transactions either during or at the end of the business year.

It shall be determined by deducting all expenses, in particular:

1. The rent of immovables leased by the enterprise and the net income of immovables which are owned by it and which form part of its assets and are subject to the land tax (*impôt foncier*). With respect to new buildings enjoying temporary exemptions, the income to be deducted shall be calculated according to the rules applicable to land taxes;

2. Amounts written off for actual depreciation (*amortissements*) within such limits as are customarily recognized in various kinds of industry or commerce;

3. Interest paid to partners (*associés*) [shareholders or other participants] on account of sums advanced by them to the enterprise other than their respective shares of the capital whatever may be the form of the company;

4. Taxes formally notified as due from the enterprise (*mis en recouvrement*), in the course of the fiscal year, including the land tax. If the amount of these taxes is subsequently reduced, such reduction shall be included in the receipts of the fiscal year during which the enterprise was notified of such reduction;

5. Reserves created to meet losses or precisely defined charges which are likely to be sustained or incurred in view of the circumstances prevailing at the time such reserves are created. So much of these reserves as are used wholly or in part for a purpose different from that for which they were intended or are not used at all in a subsequent fiscal year shall be reported as income for such fiscal year.



ART. 8. Income from securities and other investments (valeurs et capitaux mobiliers) included in the assets of the enterprise, whether subject to the tax imposed by title III of the code of securities and investments tax (code fiscal des valeurs mobiliers) or exempted from such tax by virtue of legislation in force, shall be deducted from the total amount of net profit up to their net amount arrived at by deducting the relevant quota of costs and charges.

In the case of banking and credit institutions, investment houses, and brokerage firms, this quota is fixed at 30 percent of the amount of such income; and in the case of all other enterprises, at 5 percent.

Arrears, interest, and other proceeds exempted from the tax on the income from securities and investments (impôt sur le revenu des capitaux mobiliers) by virtue of article 137 of the code of securities and investments tax, shall be excluded from the deduction provided for in the first paragraph of the present article.

ART. 8 b. As far as grain merchants or dealers in agricultural products are concerned, the taxable profit shall be determined by deducting loans on security extended by such taxpayers to farmers in conformity with the act of October 30, 1935.<sup>1</sup>

ART. 9. Notwithstanding the provisions contained in article 7, No. 1, and in article 8 preceding, the tax due from insurance and reinsurance companies, and from saving banks (entreprises de capitalisation ou d'épargne) shall be assessed on their total net income, including both the net profit derived from the conduct of their business and the net yield of whatever nature derived from movable or immovable property.

This tax shall be borne exclusively by these enterprises, companies, or insurers, which shall have no claim for reimbursement therefor upon their clients or policyholders, any clause or agreement to the contrary notwithstanding, and irrespective of the date of such agreement.

ART. 10. In the case of limited liability companies, compensation paid to managing directors (associés-gérants), although carried as charges and expenses, shall not be deducted if the majority of the shares (parts sociales) are owned by the managing directors.

For the application of this provision, managing directors who are not themselves shareholders shall be considered as such if their spouse or their minor children are shareholders. In such a case, as well as in the case when the managing director is himself a shareholder, shares owned fully or in life interest by his spouse or by his minor children shall be considered as owned by him.

ART. 11. The following deductions shall be allowed:

1. The profits of consumers' cooperative societies derived from transactions with their members and distributed to the latter in proportion to their respective purchases;

2. Such part of the net profits of workers' cooperative societies as are distributed to their members in conformity with the conditions laid down in book III, article 31, of the labor code.

ART. 12. In case of a deficit during a fiscal year, such deficit shall be considered as an expense to be charged to the fiscal year following and shall be deducted from the profit acquired during that fiscal year.

<sup>1</sup> This act (décret tendant à instituer le prêt sur gages ou nantissement entre les grainetiers et les récoltants, *Journal Officiel*, October 31, 1935), issued for the protection of the national wheat market, enabled grain merchants to extend loans secured on the harvest to farmers and provided that such transactions shall be tax-exempt.

If the profit is not sufficient to allow the full deduction of the deficit, the remaining amount of the deficit shall be deducted from the profit of the second fiscal year following the fiscal year in which the deficit occurred; if there still remains a deficit balance, it may be charged to the third fiscal year.

#### SECTION IV. ASSESSMENT ON THE BASIS OF ESTIMATED PROFITS

ART. 13. The taxable profits of taxpayers other than companies subject to inquiry (*droit de communication*) by the agents of the Registration Taxes (*l'enregistrement*) shall be fixed at a lump sum whenever their yearly turn-over does not exceed 300,000 francs, if the taxpayer's principal business is to provide board and lodging or to sell goods, wares, merchandise or commodities either to be carried away or to be consumed on the premises; and 40,000 francs for taxpayers engaged in other kinds of business.

ART. 14. The amount of the lump-sum profit shall be estimated by the administration of direct taxes.

The estimate (to be made by the assessor of taxes) shall be communicated to the taxpayer who has the right either to accept this estimate or to submit, within 20 days from the receipt of this communication, his observations concerning the figure which he would be prepared to accept.

If the taxpayer does not accept the figure which has been communicated to him and the assessor of taxes, on his part, does not accept the figure proposed by the taxpayer, the estimate of the lump sum profit shall be made by the advisory commission provided for in article 18 of the present code.

The figure determined by this commission shall be communicated to the taxpayer by the assessor of taxes, who shall inform the former at the same time of his intention either of assessing the tax on the basis of that figure, or of submitting his own estimate to the central commission referred to below.

The taxpayer may, within 20 days from the receipt of this communication, submit his observations and may request that the decision of the advisory commission be referred to a permanent central commission to be established in the Ministry of Finance and to be composed of:

The chairman of the assembly of the presidents of the chambers of commerce, who shall be president;

A representative of the Minister of Finance;

A representative of the Minister of Commerce;

A representative of the Minister of National Economy;

Three merchants or industrialists, and three substitutes designated by the assembly of the presidents of the chambers of commerce;

A higher officer from the General Administration of Direct Taxes, who shall be secretary of the commission and who shall have only an advisory vote.

The figure determined by the central commission shall be communicated to the taxpayer by the assessor of taxes.

The figure determined by the advisory commission or the central commission, as the case may be, shall serve as the basis of assessment. Nevertheless, the taxpayer may request through legal proceedings, after he was formally notified that the tax is due (*après la mise en recouvrement du rôle*), a reduction of the lump sum of estimated

profits which has thus been determined for him, subject to proof that such figure is higher than the profit which his enterprise can normally produce.

The members of the commissions above referred to shall hold in confidence, as provided hereafter in article 143, what they learned in the discharge of their duties.

ART. 15. The lump sum of estimated profits shall be determined for a period of 2 years.

It shall be deemed to be renewed by tacit agreement unless it is denounced either by the tax administration or by the taxpayer during the last 2 months of any 2-year period. Nevertheless, it may be revised during the first 2 months of each year in case of a manifest change in the nature or the conditions of the enterprise.

In case the enterprise shall have been started during the [calendar] year, the estimated profit for that year, for the purpose of assessing the tax due the following year, shall be reduced in proportion to the number of full months which have elapsed between the establishment or the setting up of the new enterprise and December 31.

With a view to the application of these provisions, taxpayers are required to report to the assessor of taxes, within 20 days of his request therefor, the amount of their turn-over during the preceding year, and the amount of merchandise purchased by them during the same period.

#### SECTION V. ASSESSMENT ON THE BASIS OF ACTUAL PROFITS

ART. 16. Taxpayers whose turn-over exceeds 300,000 or 40,000 francs, respectively, according to the distinction stated in article 13 above, as well as companies subject to inquiry by the agents of the Registration Taxes are required to submit before March 1 of each year, to the assessor of direct taxes, a return of the amount of their net profits for the preceding calendar or fiscal year.

The time limit prescribed in the preceding paragraph shall be extended to March 31 in the case of those individuals or companies which, in the year preceding the assessment, closed their balance sheets during the month of December.

If the enterprise suffered a deficit, the return setting forth the amount of such deficit shall be made at the time fixed above:

ART. 17. The taxpayers referred to in the preceding article are required to submit, together with the return, a summary of their profit and loss account, a copy of their financial statement, and a statement of the amounts written off for depreciation (*amortissements*) and of the reserve funds set aside from profits, indicating precisely the nature of such debts and reserve funds.

Companies subject to the provisions of article 2 of the act of June 29, 1872,<sup>2</sup> shall attach also a copy of the documents filed with the office of Registration Taxes (*Bureau de l'Enregistrement*) for the purpose of the assesment of the tax on income from securities and investments.

Insurance and reinsurance companies and savings banks shall submit, moreover, in duplicate, copies of the itemized report with tables annexed which they are required to submit to the Ministry of Labor.

<sup>2</sup> This act introduced the tax on income from certain categories of securities (*Loi relative à un impôt sur le revenu des valeurs mobilières*, *Journal Officiel*, June 30, 1872).



The taxpayer is obliged to produce, at the assessor's request, all documents, inventories, copies of correspondence, and evidences of receipts and expenditures in support of the correctness of the items in his return.

If the accounts are kept in a foreign language, a translation attested by a certified translator shall be submitted at the assessor's request.

ART. 18. The assessor shall verify the returns.

He may grant a hearing to the parties concerned if he deems it useful or if the taxpayer requests an opportunity to explain his return verbally. He may correct the returns. But in such case, he shall inform the taxpayer of the contemplated correction and indicate the reasons therefor. At the same time he shall request the taxpayer to indicate his acceptance or to submit his observations within 20 days. If no reply is received within such time, the assessor shall fix the basis of assessment, subject to the right of the taxpayer to file a complaint after the tax roll has been prepared.

If observations are submitted within the time prescribed and if no agreement is reached between the taxpayer and the assessor, the dispute may be submitted to an advisory commission sitting in the capital of the department and composed of six merchants or manufacturers or former merchants or manufacturers eligible to the commercial courts (*tribunaux de commerce*), who shall be designated by the chamber of commerce under conditions determined by an administrative ordinance, a president or director of a consumer's cooperative, a wage-earning taxpayer, and an owner of a rural estate, who, as well as their respective substitutes, shall be designated by the prefect.

The opinion of the commission shall be communicated to the taxpayer by the assessor, who shall at the same time inform the taxpayer of the figure on the basis of which he intends to assess the taxpayer.

If this assessment is in conformity with the opinion of the commission, the taxpayer cannot obtain a reduction through legal proceedings unless he produces proofs of the exact amount of his profits.

In the contrary case, the burden of proof is on the tax administration to the extent that the profits made the basis of the assessment of the tax exceed the finding of the commission.

Returns filed by the taxpayers referred to in article 16, who fail to submit in support thereof the information required by article 17, shall be subject to official rectification.

ART. 19. Mining engineers may be invited, either instead of or in cooperation with agents of the administration of direct taxes, to verify the returns filed by the taxpayers referred to in article 1, paragraph 2, and by quarry enterprises.

ART. 20. For determining the tax on industrial and commercial profits due from enterprises which are controlled by or which control enterprises situated outside of France, profits indirectly transferred to the latter by increase or reduction of the purchase or sale price or by any other method shall be included in the profits returned. The same procedure shall be adopted with respect to enterprises which are controlled by an enterprise or a group controlling enterprises situated outside of France.

In the absence of precise information whereby the readjustment provided for in the preceding paragraph can be effected, the taxable profits shall be determined by comparison with the profit of similar enterprises operated under normal conditions.

## SECTION VI. TAXABLE PERSONS—THE PLACE OF TAXATION

ART. 21. The tax shall be imposed, in the name of each business, with respect to all of its enterprises operated in France, at the head office of the concern or, in the absence of such, at the place where its principal business is located.

In partnerships (*sociétés en nom collectif*), each partner shall be personally assessed with respect to the partnership profits corresponding to his share in the partnership.

In limited partnerships (*sociétés en commandite simple*), the tax is imposed in the name of each of the active partners (*commandité*) for their respective shares of the profits, and in the name of the partnership for the remainder.

The assessments thus entered in the tax roll in the names of partners nevertheless remain debts of the firm.

## SECTION VII. THE COMPUTATION OF THE TAX

ART. 22. In the computation of the tax, every fraction of the assessable profits below 100 francs shall be disregarded.

The general rate provided for in article 137 below shall be applied.

This rate is reduced by half with respect to individuals and partnerships when their assessable profits do not exceed 10,000 francs. With respect to the same category of taxpayers, only one-half of the assessable profits shall be taxed when they do not exceed 5,000 francs.

The tax computed as indicated above shall be reduced, in appropriate cases, on account of dependents (*charges de famille*) of the taxpayer, in accordance with the provisions of article 102 below.

ART. 23. Notwithstanding the provisions of the preceding article, the following shall be taxed according to the rates applicable in the case of the tax on salaries and wages and by making allowance for the reductions on account of dependents allowed by that tax:

1. Home workers, whether working by hand or with the aid of a machine and irrespective of whether or not they own their tools, if they are engaged exclusively in executing special orders (*opèrent à façon*) for manufacturers or merchants, from raw materials supplied by the latter, and if they use no help other than that of their wife, their father and mother, their children and grandchildren, and of one journeyman or apprentice below the age of 18 with whom a regular apprenticeship contract has been concluded in accordance with articles 1, 2, and 3 of book I of the Labor Code.

Every workman who, pensioned by virtue of the act of March 31, 1919,<sup>3</sup> or of the act of April 9, 1898,<sup>4</sup> was forced to change his calling by reason of incapacity caused by the war or by an accident may be employed for 1 year as an apprentice irrespective of his age, without such employment depriving the employer of the privilege granted by the present article.

The number of journeymen is raised to three for a home worker (*ouvrier façonnier*) who owns a shop in which each journeyman executing separately his piece work or his specialty receives from the

<sup>3</sup> The War-Pensions Act (*Loi modifiant la législation des pensions des armées de terre et de mer*, Journal Officiel, April 2, 1919).

<sup>4</sup> The Workmen's Compensation Act (*Loi concernant les responsabilités des accidents dont les ouvriers sont victimes dans leur travail*, Journal Officiel, April 10, 1898).

owner a share of the price received by the latter for the product, which share is fixed in accordance with the local customs of the industry;

2. Artisans working either at home or elsewhere who are engaged primarily in the sale of the products of their own labor and who do not employ any other help than that enumerated in section 1;

3. The widow of a workman or of an artisan, working under circumstances stated in sections 1 and 2 preceding, when she continues the business previously carried on by her husband.

The provisions of the preceding sections 1, 2, and 3 shall be applied in all of the cases enumerated, irrespective of whether the home worker carries on the business as a sole merchant, as a partnership, or as a joint venture (*en communauté d'intérêts*) with persons whose cooperation is authorized;

4. Persons who sell, on their own account, from pushcarts on the streets, in the thoroughfares, and in the markets, goods or edible products of slight value, provided that such persons are in possession of permits issued by the administration and that the goods to be sold are not transported by automobile or by other drawn vehicle;

5. Bargemen, owners of a single barge which they themselves run and operate, provided that the barge is not self-propelling;

6. Chauffeurs and coachmen, owners of one or two vehicles which they themselves own and operate, provided that the two vehicles are not put in service simultaneously, that they do not accommodate more than four persons, and that the transportation charges conform to a prescribed tariff;

7. Fishermen personally engaged in fishing for fish, shellfish, or other sea or fresh water products, as well as widows of such fishermen when they continue to operate the vessel used by their husbands;

8. Farmers rendering incidental transportation services to other persons by means of teams kept for the needs of their agricultural work;

9. Milk collectors who, rendering no other transportation services for others, confine their activities to gathering milk from farms for industrialists, merchants, and cooperatives, provided that they do not employ other assistance than that provided for in section 1 of this article and provided, further, that they do not use more than one automobile, or two drawn vehicles; in this latter case, the second vehicle may not be used except accessorially and for the purpose of carting to the first vehicle part of the milk collected on a round during the height of production.

These provisions shall be applicable, subject to the same conditions, to those who collect milk by one mechanically propelled boat or by two boats propelled by manpower or by sail.

10. Men enrolled for naval conscription exercising the profession of ferryman who are owners of one or two launches which they themselves run and operate, provided that the two launches are not put in service simultaneously, that they do not measure more than 8 meters to the floating line and provided further that the transportation charges conform to a tariff determined by the municipal authority.

#### SECTION VIII. PENALTIES

ART. 24. A taxpayer who is bound to file a return of his actual profits and who fails to file his return within the time required by



article 16 above shall be assessed by the tax administration, and his assessment shall be increased by 25 percent.

ART. 25. In case any inaccuracy is found in the written documents and information submitted in support of the return, the tax shall be doubled with respect to the concealed profits, provided that the deficiency is more than one-tenth [of the reported profits] or exceeds 20,000 francs.

#### SECTION IX. TRANSFER OR DISCONTINUANCE OF THE ENTERPRISE

ART. 26. In case of the total or partial transfer or discontinuance of an enterprise, the tax due from manufacturers or merchants on account of profits which have not yet been taxed, shall be assessed immediately.

With respect to taxpayers who are taxed by the method of estimated profits, the taxable profit is the amount of the lump-sum profit reduced in proportion to the time elapsed from January 1 to the day when the transfer or the discontinuance became effective, each month begun being counted as a full month.

Taxpayers falling in this category shall, within 10 days, as prescribed hereafter, inform the assessor of taxes concerning the transfer or discontinuance, and the date when it has or shall become effective, and—in appropriate cases—as to the name and address of the transferee.

Taxpayers who are not taxed by the method of estimated profits shall report to the assessor of taxes, within the same time limit, in addition to the information required above, their actual profits, accompanied by an abstract of their profit-and-loss account. The time limit of 10 days hereinbefore referred to shall be counted as follows:

In the case of the sale or transfer of a business concern, from the date on which legal notice of such sale or transfer was published in a newspaper in compliance with article 3, paragraph 1, of the act of March 17, 1909, modified by article 1, of the act of July 31, 1913;<sup>5</sup>

In the case of the sale or transfer of other enterprises, from the date on which the buyer or transferee actually assumed the direction of operations;

In the case of the discontinuance of enterprises, from the date of the actual closing down of the establishment.

If taxpayers do not produce the information required in paragraphs 3 and 4 of the present article, or if, having been requested to submit the necessary proofs in support of their return of the actual profits, they fail to do so within 10 days from the receipt of such request, the basis of assessment shall be determined by the tax administration, and the penalty provided for in article 24 shall be applied.

In case of any inaccuracy in the information submitted in support of the return of the actual profits, the penalty provided in article 25 shall be imposed on the parties concerned.

The taxes assessed under the circumstances indicated in the present article shall be payable in full immediately.

In the case of a transfer, whether for or without consideration and whether the sale was forced or voluntary, the transferee may be held liable jointly with the transferor for the payment of the taxes due on

<sup>5</sup> The act of March 17, 1909, concerning the sale and lease of business enterprises (*Loi relative à la vente et au nantissement des fonds de commerce*, Journal Officiel, March 19, 1909), amended by the act of July 31, 1913 (Journal Officiel, August 1, 1913), provide in art. 3, par. 1, for the publication, by the purchaser or the lessee, of a notice of the sale or transfer of a business within 2 weeks from the date of the transaction in a newspaper carrying legal notices.

account of profits realized by the latter in the calendar or fiscal year during which the transfer took place up to the date of such transfer; the transferee may also be held jointly liable for the taxes due on account of profits realized during the preceding calendar or fiscal year when—the transfer having taken place before the expiration of the time limit fixed for filing the return—such profits have not been reported by the transferor before the date of the transfer.

However, the transferee shall not be held liable beyond the amount of the purchase price, if the transfer took place for valuable consideration, or beyond the value put on it for the payment of the conveyance fees (*droit de mutation*), if it took place without consideration *inter vivos*; moreover, he may only be sued within 3 months beginning from the day of filing the return provided for in paragraphs 3 and 4 of the present article, if such return was filed within the time limit prescribed in the aforesaid paragraphs, or at the last day of such time limit in default of such a return.

The provisions of the present article shall be applicable in case of death of the owner of the concern. In such a case, the information necessary for the assessment of the tax shall be submitted by the rightful heirs of the decedent within 6 months from the day of death.

#### CHAPTER IB. SPECIAL TAX ON PROFITS ACQUIRED BY ENTERPRISES WORKING FOR NATIONAL DEFENSE

ART. 26b. There shall be levied a special tax on profits acquired from the performance of contracts made by the Department of Army, Navy, and the Air.

The rate of this tax shall be 20 percent, and the procedure applicable to direct taxes shall be followed in its assessment and collection.

An administrative regulation shall determine the method of application of this article in conformity with the principles contained in the legislation concerning war profits; this regulation also shall define the nature and the categories of the contracts, which are subject to this tax.<sup>6</sup>

#### CHAPTER IC. ANNUAL TAX ON THE UNDISTRIBUTED PROFITS OF CORPORATIONS AND LIMITED LIABILITY COMPANIES

ART. 26c. 1. In addition to the industrial-profit tax, there shall be levied on corporations and limited liability companies an annual tax of 4 percent on undistributed profits.

Undistributed profit shall be taken to be equal to the difference between the annual net profit (including that derived from income from real property and from capital investments) which was used as a basis for the industrial property tax, and the amount distributed to shareholders out of such profits, whether such payments were subject to the tax on income from securities or were by law exempt therefrom.

In the case of companies which have branches outside of France, the amount distributed shall be reduced in the proportion which profits acquired in France bear to the total profits.

<sup>6</sup> The special tax on profits acquired by enterprises working for national defense was introduced by an executive decree of July 16, 1935 (*Journal Officiel*, July 17, 1935), issued by virtue of the extraordinary powers conferred on the French Government by the act of June 8, 1935. An administrative ordinance of September 15, 1935 (*Journal Officiel*, September 17, 1935) contains detailed regulations as to the type and nature of transactions which generate tax liability and as to the assessment of this tax.

In the case of companies engaged in the export of goods or merchandise, there shall be deducted from the assessment as provided for above, an abatement calculated on the basis of the proportion of the exports business done by establishments situated in France to the total business of such establishments. However, export of armament shall be excluded from the benefit of this provision.

2. The following shall be exempt from the tax:

(1) Reserve funds set aside in compliance with law;

(2) Amounts written off for actual depreciation within such limits as are customarily recognized in various types of industry and commerce;

(3) Other proper reserves (*les provisions justifiées*).

3. The rate of the tax payable by public utilities shall be 6 percent.

4. The tax shall be assessed and claims shall be filed, heard, and decided according to the rules applicable to the industrial-profit tax. The time limit for claims and the penalties shall be the same as provided for in the case of the industrial-profit tax.

5. Rules for the application of this article shall be determined by administrative regulation.

The tax shall be collected in accordance with the rules applicable to direct taxes.

#### CHAPTER ID. SPECIAL TAX ON PROFITS ACQUIRED FROM CONTRACTS CONCLUDED WITH VARIOUS PUBLIC ORGANIZATIONS AND ON PROFITS OF PUBLIC UTILITIES ENGAGED IN THE PRODUCTION OR DISTRIBUTION OF WATER, GAS, OR ELECTRICITY

ART. 26d. 1. There shall be levied a special tax on profits acquired from the performance of contracts made with the State, municipalities, and larger political subdivisions, public agencies and the National association of French railroads concerning the operation of trunk railroad lines of general interest as well as with the governments of colonies, protectorates, or territories under French mandate and with the municipalities or public agencies of such colonies, protectorates, or territories.

The taxable profit shall be arbitrarily estimated by applying to the total profit subject to the tax on industrial or commercial profit, the percentage of receipts from such contracts to the total receipts of the enterprise during the period for which the said tax was assessed.

This tax shall not be due when this percentage is below 25 percent.

The tax shall also apply to profits of enterprises engaged in the production or supply of water, gas, or electricity which operate by virtue of a concession or of a lease. The third paragraph of this section shall not apply to these enterprises.

2. Profits subject to the special tax imposed by Art. 26b on profits acquired by enterprises working for the national defense, shall be excluded when calculating the basis of this tax.

3. The rate of this tax shall be 8 percent.

4. This tax shall be assessed and collected as is the tax on industrial and commercial profits.

5. Enterprises whose profits are arbitrarily estimated in accordance with articles 13-15 and handicraft enterprises described in Article 23 shall be exempt from this tax.



## CHAPTER II. SPECIAL TURN-OVER TAX (TAUX SPÉCIALE SUR LE CHIFFRE D'AFFAIRES)

## SECTION I. TAXABLE ENTERPRISES AND THE BASIS OF THE TAX

ART. 27. Independently of the tax upon industrial and commercial profits as provided for in the preceding articles, there shall be levied a special turn-over tax upon the sale at retail of goods and commodities when the amount of such sales exceeds, during the period for which the scheduled tax was assessed, 1,000,000 francs exclusive of exports to foreign countries, to Algeria and to [French] colonies and protectorates.

ART. 28. The same tax shall be imposed upon banking and credit institutions and upon insurance and saving enterprises when their [annual] turnover exceeds 1,000,000 francs.

In the case of banking and credit institutions, the following shall be included in the calculation of the turn-over: Brokerage fees, commissions, remittances, salaries, rents, custodian fees, interest, discounts, exclusive of rediscounts, agios, profits from stock and bond transactions, and other profits definitely realized, exclusive of income from securities in hand.

In the case of insurance companies, the calculation of the turn-over shall include the amount of premiums collected exclusive of premiums for marine insurance, and for export-credit insurance and the receipts from reinsurance.

In the case of savings enterprises (entreprises de capitalisation) account shall be taken of the amount of payments made by subscribers.

In the case of savings banks, the tax shall be assessed only upon the amount of overhead charges.

ART. 29. In the case of concerns with several branches, the turn-over upon which the special tax is levied shall be the total amount of taxable transactions effected by all branches established either at the city where the head office is located or in other cities.

If the branches are operated by one or several subsidiary companies, the special tax shall be assessed in the name of the parent company with respect to all taxable transactions effected by it, and by the subsidiary companies.

The turn-over which shall be taken into account for the application of this provision, as far as the parent company and each of the subsidiaries are concerned, shall be the turn-over during the period for which the tax on industrial and commercial profits due from each of these companies was assessed.

ART. 30. The following shall be exempt from the tax:

1. Transactions effected by consumers' cooperative societies exempted from the scheduled tax;
2. The sale of motor vehicles.

## SECTION II. THE METHOD OF ASSESSMENT

ART. 31. Taxpayers subject to this tax shall report the amount of their retail sales within the time limit provided for in article 16; taxpayers other than sales-enterprises shall report the total amount of their transactions during the period for which the tax on industrial and commercial profits was assessed in accordance with article 6; they shall submit, moreover, in support of their return, all evidence neces-

sary to prove its accuracy. In case of discontinuance or transfer of the enterprise as well as in case of the death of the owner, the provisions of article 26 shall be applicable to the return of the untaxed turn-over and to the assessment and payment of the tax thereon.

### SECTION III. THE COMPUTATION OF THE TAX

ART. 32. For the computation of the tax, every fraction of the turn-over not exceeding 1,000 francs shall be disregarded.

The rate of the tax shall be determined according to the following schedule:

1.20 per 1,000 on the part of the turn-over between 1 and 2 million francs;

2.40 per 1,000 on the part of the turn-over between 2,000,001 francs and 10 million francs:

3.60 per 1,000 on the part of the turn-over between 10,000,001 francs and 100 million francs;

4.80 per 1,000 on the part of the turn-over between 100,000,001 francs and 200 million francs;

6 per 1,000 on the part of the turn-over over 200 million francs.

ART. 33. In the case of failure to file a return or in case of an inaccurate return, the penalties provided in articles 24 and 25 shall be applicable.

### CHAPTER III. APPRENTICESHIP TAX (TAKE D'APPRENTISSAGE)

ARTS. 34-47. This tax is due from individuals and companies subject to the tax on industrial profits and is levied on the total amount of salaries, wages, and remunerations of any kind paid during the fiscal period, the yields of which were taken for the assessment of the tax on industrial profits. Businesses with a pay roll not exceeding 10,000 francs per year, persons enumerated in article 23, *supra*, and corporations whose sole purpose is educational are exempt from this tax. The tax rate is 0.20 percent. The proceeds of the tax are used for the improvement of the training of young people for industrial or commercial callings. Taxpayers who provide for the technical education of apprentices may request total or partial exemption from the tax. Such exemptions are granted by departmental committees of technical instructions; their ruling may be appealed to the High Council of Technical Instruction. [Ed.]

### CHAPTER IV. PARISH TAX ON PROFITS FROM MINES (TAKE COMMUNALE SUR LES BÉNÉFICES DE L'EXPLOITATION MINIÈRE)

ARTS. 48-50. OMITTED <sup>7</sup>

### TITLE II. TAX ON AGRICULTURAL PROFITS (IMPÔT SUR LES BÉNÉFICES DE L'EXPLOITATION AGRICOLE)

#### SECTION I. PROFITS SUBJECT TO THE TAX.—COMPUTATION OF TAXABLE PROFITS

ART. 51. A yearly tax shall be levied on agricultural profits.

ART. 52. For the purpose of assessment of the tax, the profits derived from agricultural operations shall be considered as equal to

<sup>7</sup> This tax, of 5% on profits acquired from mining operations, over and above the tax on industrial profits, is collected for the benefit of municipalities in whose territories the mines are situated.



the income on the basis of which land taxes (*contribution foncière*) are assessed on cultivated lands. However, the part of such income exceeding 8,000 francs shall be doubled.

If the land tax is remitted or reduced by virtue of articles 218-220 of the present code, on account of losses suffered during the year preceding the assessment, the income on the ground of which the reduction was computed shall not be taken into account.

ART. 53. The system of assessing the tax on the basis of estimated profits, as provided for in the first paragraph of the preceding article, may be denounced by the taxpayer in the first 2 months of the year in order to substitute therefor assessment based on the amount of actual profits derived from land cultivation. If the tax based on estimated profits exceeds 5,000 francs, it also may be denounced by the assessor within the time limit provided for in the first paragraph of article 139.

The taxpayer who denounces the system of estimated profits shall submit in support thereof the following proof:

The nature of the principal cultivations;

Gross receipts;

The amount of farm rents, remunerations paid in cash to employees, and, should the occasion arise, interest paid on debts incurred for the purposes of cultivation.

The assessor who intends to denounce the system of estimated profits may request the taxpayer to submit to him information concerning the above data within 20 days.

In both cases, the assessor shall notify the taxpayer of the figure on the basis of which he intends to assess the tax.

The taxpayer may submit his observations within 20 days.

ART. 53-b. 1. In the case of a disagreement between the assessor and the taxpayer concerning the determination of the amount of the actual net profits, such disagreement shall be submitted for consideration to a departmental advisory commission composed as follows:

A member of the Chamber of Agriculture who shall be president;

Four taxpayers who are liable for the tax on agricultural profits and who shall be designated by the Chamber of Agriculture;

The owner of a rural estate who is not himself a cultivator, a president or a director of the Consumers' Cooperative, a wage-earning taxpayer, and a merchant, all of whom shall be designated by the prefect.

The members of the commission and their substitutes shall be appointed for 1 year; they may be reappointed.

Secretarial functions shall be discharged by an official of the administration of direct taxes who shall be designated by the director. The secretary shall attend the meetings and shall have an advisory vote.

The taxpayer may submit to the commission written or oral explanations [concerning the amount of his actual net profits].

The opinion of the commission may be rendered by a majority vote; in the case of a tie, the president shall have the deciding vote. The presence of at least five members shall be necessary for the validity of such an opinion.

The opinion of the commission shall be notified to the taxpayer by the assessor, who shall inform the taxpayer at the same time either of the figure on the basis of which he intends to assess the

tax or of his intent to refer the opinion to the central commission provided for hereafter.

2. The taxpayer may, within 20 days from the receipt of this notification, submit his observations and request that the opinion of the departmental commission be referred to a permanent central commission sitting in the Ministry of Finance and composed as follows:

The president of the permanent assembly of the presidents of the chambers of agriculture or his representative who shall be president;  
A representative of the Minister of Finance;  
A representative of the Minister of Agriculture;  
A representative of the Minister of National Economy;

The owner of a rural estate and two taxpayers liable for the tax on agricultural profits who, together with three substitutes, shall be designated by the permanent assembly of the presidents of the chambers of agriculture.

A superior official from the general directorate of direct taxes, who shall be designated by the Minister of Finance, shall discharge the functions of secretary and shall attend the meeting with an advisory vote.

The opinion of the permanent central commission shall be given to the taxpayer by the assessor, who shall inform him at the same time of the figure on the basis of which the assessor intends to assess the tax.

3. If the assessment is in conformity with the opinion of either the departmental commission or the central commission (when the issue was laid before the latter), the taxpayer may not sue for a reduction except by submitting proofs of the exact figure of his profits.

In the contrary case, the burden of proof shall be on the tax-administration so far as the amount of the profits on the basis of which the tax was assessed exceeds the amount fixed by the commission which decided the issue in the last resort.

4. The members of the commissions provided for in the present article shall hold in confidence what they learn in the discharge of their duties, as provided hereafter in article 143.

ART. 54. In the computation of actual profits, as provided for in article 53, a deficit suffered during a fiscal year shall be considered as a charge in the following fiscal year and shall be deducted from the profits acquired during that fiscal year. If these profits are not sufficient to allow the full deduction of the deficit, the balance of the deficit may be deducted from the profits acquired during the second fiscal year following; should there still remain a deficit, it may be charged to the third fiscal year following.

## SECTION II. TAXABLE PERSONS.—THE BASIS AND PLACE OF ASSESSMENT

ART. 55. The tax shall be assessed, in the name of the cultivators, in the parish wherein they have their residence (*habitation principale*) on January 1 of the year of assessment and according to the status of their cultivation on January 1 of the preceding year.

In the case of a lease where rent is paid in kind (*bail à portion de fruits*), the lessor and the lessee-farmer (*métayer*) shall be assessed severally for the taxable yields according to their respective participation therein. Nevertheless, the deduction applicable to the computa-

tion of the tax shall only be applied, as far as the lessor is concerned, to the entirety of his holdings.

In the case of joint cultivation, the tax shall be assessed in accordance with the rules laid down in paragraphs 2 and 3 of article 21.

### SECTION III. THE COMPUTATION OF THE TAX

ART. 56. In the computation of the tax, parts of the income not exceeding 100 francs shall be disregarded.

The tax shall be levied only on the part of the income which exceeds the sum of 2,500 francs.

Moreover, only one-half of the part of the income between the exempt minimum and 10,000 francs shall be taxed.

The general tax rate provided for in article 137 hereinafter shall be applied.

The tax thus computed shall be reduced, in proper cases, on account of family dependents, under the conditions laid down in article 102 hereinafter.

### SECTION IV. INFORMATION TO BE SUPPLIED BY LANDOWNERS

ART. 57. At every renewal or modification of the lease, where rent is paid in kind, the lessor within 3 months shall inform the assessor of direct taxes in the district where the land is situated, concerning the shares of each of the parties.

In every case, whether a farming lease or a lease where rent is paid in kind (*colonat partiaire*), the owner shall submit to the assessor of direct taxes, within 3 months from each renewal of the lease, a declaration containing the description of the cultivation, the name of the entering tenant or farmer, and the date of his entry. If leases of land (*marchés de terre*) are involved, the declaration shall indicate, besides the name of the lessee, the description and the cadastral revenue<sup>8</sup> of the leased lots.

### SECTION V. PLEASURE GROUNDS (TERRAINS D'AGRÉMENT)

ART. 58. Parks, gardens, avenues, ornamental lakes, and all other pieces of land used exclusively as pleasure grounds or especially parcelled out for hunting, as well as noncultivated land intended for building, shall be subject to the tax on agricultural profits on the basis of income determined according to the method above stated in article 52.

The tax shall be levied on the whole of such income without any deduction or reduction whatsoever.

ART. 59. The following shall be exempt from the tax provided for in the preceding article:

1. Pleasure grounds, the area of which does not exceed 1 hectare [2.47 acres] and the taxable income of which does not exceed 100 francs;

2. Parks and gardens situated in crowded sections of communities whose total population is over 5,000 inhabitants, irrespective of their area and of their taxable income;

<sup>8</sup> Real property in France is recorded in the cadastre or land-registry. All taxes affecting real estates—lands or buildings—are assessed on the basis of the value of the property shown in the land-register. This value is the rental value (*valeur locative*) of the property arbitrarily estimated by a rather complicated procedure. The rental value shown in the land registry is the "cadastral revenue" of land.



3. Grounds belonging to public agencies of low-cost housing which are intended for purposes laid down in article 8 of the act of December 5, 1922.

**TITLE III. TAX ON PUBLIC AND PRIVATE SALARIES, ALLOWANCES AND REMUNERATIONS, WAGES, PENSIONS, AND LIFE ANNUITIES (IMPÔT SUR LES TRAITEMENTS PUBLICS ET PRIVÉS, LES INDEMNITÉS ET ÉMOLUMENTS, LES SALAIRES, LES PENSIONS ET LES RENTES VIAGÈRES)**

**CHAPTER I. ASSESSMENT OF INCOME RECEIVED BY PERSONS DOMICILED IN FRANCE**

**SECTION I. INCOME SUBJECT TO THE TAX**

ART. 60. A yearly tax shall be levied on income received from public and private salaries, allowances and remunerations, wages, pensions, and life annuities.

ART. 61. The following shall be exempt from this tax:

1. Pensions paid by virtue of the act of March 31, 1919, exclusive of that part of the mixed pensions provided for in article 60, paragraph 2 of the said act which corresponds to the duration of service;

2. Veterans' pensions established by articles 197-199 of the act of April 16, 1930;

3. Life annuities and compensations paid to victims of industrial accidents;

4. Life annuities paid by virtue of article 96 of the act of December 30, 1928, of article 5 of the act of September 17, 1932, and of article 1 of the act of October 1, 1936;

5. Allowances to large families (extra pay, supplementary wages) paid exclusively by employers to their staff.

**SECTION II. TAXABLE PERSONS AND THE PLACE OF ASSESSMENT**

ART. 62. The tax shall be assessed in the name of the recipients of the taxable income and in the municipality where they are domiciled.

**SECTION III. THE BASIS OF ASSESSMENT**

ART. 63. The tax shall be payable each year for salaries, allowances, and remunerations, wages, pensions, and life annuities received by the taxpayer during the preceding year.

ART. 64. In determining the basis of assessment, account shall be taken of the net amount of salaries, allowances and remunerations, wages, pensions, and life annuities as well as of all benefits in cash or in kind received by the taxpayer over and above salaries, allowances and remunerations, wages, pensions, and life annuities in the strict sense of the word.

This [net] income shall be determined by deducting—

1. Sums deducted or payments made [from salaries, etc.] for the establishment of pension funds up to 6 percent of the gross amount of salaries, provided that the deduction shall not exceed 10,000 francs:

2. Sums paid for social insurance;

3. The tax on salaries and wages, pensions, or life annuities paid [or payable] in the preceding year;



4. Expenses incidental to the functions or the employment [of the wage earner] when no special allowances have been paid therefor.

The permissible deduction on account of professional expenses shall be arbitrarily fixed at 10 percent of the gross income after deducting therefrom the deductions and payments referred to above in sections 1 and 2, provided that such deduction [of 10 percent] shall not exceed 20,000 francs. For professions which normally require a higher percentage of professional expenses, such percentage and the maximum of the arbitrary deduction shall be determined by an ordinance of the Minister of Finance.

#### SECTION IV. THE COMPUTATION OF THE TAX

ART. 65. In computing the tax, part of the income not exceeding 100 francs shall be disregarded.

The tax shall be levied only on that part of the yearly net income which exceeds 10,000 francs.

Disabled veterans who receive a disability pension shall be entitled to a supplementary deduction of 1,000 francs.

Only one-half of the part of the income between the exempted minimum and 20,000 francs shall be reckoned [for the purpose of assessment].

The reduced tax rate provided for hereafter in article 137 shall be applied.

ART. 66. Taxpayers shall be entitled to make the following reductions in the tax computed in accordance with the preceding article:

1. Taxpayers whose net income does not exceed 20,000 francs, 20 percent for each of the first two dependent children and 60 percent for every dependent child thereafter;

2. Taxpayers whose net income is between 20,000 and 40,000 francs, 15 percent for each of the first two dependent children and 45 percent for every dependent child thereafter;

3. Taxpayers whose net income exceeds 40,000 francs, 10 percent for each of the first two dependent children and 30 percent for every dependent child thereafter.

The maximum amount of reductions allowed by virtue of the present article may not exceed 800 francs for each of the taxpayer's dependent children.<sup>9</sup>

Dependent children shall be considered as those defined hereafter in article 116, with respect to the general income tax.

#### SECTION V. INFORMATION TO BE SUPPLIED BY EMPLOYERS, HEADS OF BUSINESS HOUSES AND BY THE PAYORS OF PENSIONS AND LIFE ANNUITIES

ART. 67. Every individual, company, or association employing clerks, workmen or assistants in consideration for salaries, wages, or remuneration shall be required to submit each year during January to the assessor of direct taxes a statement showing:

1. The names, employment, and addresses of the persons whom they have employed during the preceding year;

<sup>9</sup> Art. 48, par. 2, of the ordinance of July 8, 1937, issued by virtue of the act of June 30, 1937, conferring extraordinary powers on the Government in order to cope with the financial and economic crisis (Journal Officiel, July 9, 1937, annex No. 306) provided that for the fiscal year 1938 the reductions allowed on account of dependent children by art. 66 of the Code of Direct Taxes shall be increased by one-sixth, that is to say, the maximum amount of reduction for each dependent child was raised to 933 francs.

2. The amount of salaries, wages, and remuneration paid to each one during that year;

3. The period for which such payments were made when such period is less than 1 year but more than 30 consecutive days.

With respect to persons paid by a single employer, the declaration provided for by the present article shall be required only if the salaries, wages, and remunerations received by them through the year exceed the minimum taxable income.

ART. 68. Heads of business houses and taxpayers who are subject to the tax on noncommercial profits (*l'impôt sur les bénéfices des professions non commerciales*) shall be required to declare under the same circumstances as above:

1. Remunerations paid, irrespective of their amount during the year, to persons discharging functions or whose functions are capable of being discharged in several enterprises simultaneously, such as the positions of directors, member or secretary of a board of directors, board of managers or board of supervision (whatever may be its name), auditor, treasurer, etc.; this declaration is required even though such remuneration is subject to the registry tax on the income from securities and investments (*taxe d'enregistrement sur le revenu des valeurs mobilières*);

2. Sums paid by them in connection with the exercise of their profession in the form of commissions, brokerage fees, commercial or other rebates, fees, honoraria, whether or not incidental, gratuities and other remunerations, whenever the amount paid to the same person during the year exceeds 1,000 francs. These sums shall be subject to the scheduled tax corresponding to the nature of the activity for which the recipient received them without prejudice to the application of the general income tax. The taxpayer who does not include in his declaration the payments referred to in the present paragraph shall lose the right to deduct such payments when determining his own assessment.

ART. 69. Enterprises, companies, and associations engaged in the collection and payment of copyright and patent royalties shall be required to submit, in accordance with the provisions of article 67, a declaration indicating the amount of sums exceeding 1,000 francs per year paid by them to their members or principals.

ART. 70. Every individual, company, or association paying pensions or life annuities shall be required to submit, in accordance with the provisions of article 67, information relating to the recipients of such pensions or annuities, whenever the amount paid exceeds 5,000 francs.

#### SECTION VI. PENALTIES APPLICABLE TO EMPLOYERS, HEADS OF BUSINESS HOUSES AND PAYERS OF ANNUITIES IN THE CASE OF VIOLATION OF THE LEGAL REQUIREMENTS

ART. 71. Every person who violates the provisions contained in articles 67-70 shall be subject to a fine of 100 francs for each omission or inaccuracy discovered in the information required by virtue of the said articles.

The fine shall be imposed by the departmental administrative court (*conseil de préfecture*) which decides the matter, as in cases of minor offenses, upon a petition submitted, free of charge, by the director of direct taxes.

A copy of the petition shall be communicated to the delinquent taxpayer by the departmental administrative court.

The statute of limitations shall not apply until the end of the fourth year following the year during which the violation occurred.

The fine shall be collected by the collector of direct taxes.

#### SECTION VII. INFORMATION TO BE SUPPLIED BY THE RECIPIENTS OF SALARIES, WAGES, PENSIONS, AND LIFE ANNUITIES PAID FROM ABROAD

ART. 72. Taxpayers domiciled in France who receive salaries, allowances, remunerations, wages, pensions, or life annuities from individuals, companies, or associations domiciled or established outside of France shall be required to report to the assessor of direct taxes, in the first 2 months of each year, the amount of their income falling in this category received during the preceding year and shall submit proof, if so requested, to justify the accuracy of their report.

If no report or an inaccurate report has been submitted, the tax shall be assessed arbitrarily [by the tax administration].

#### SECTION VIII. THE DETERMINATION OF THE TAXABLE INCOME

ART. 73. The assessor of direct taxes shall assess the tax in the light of the information supplied in accordance with the preceding provisions and such other information as he may obtain without prejudice to the taxpayer's right to appeal therefrom after the tax roll has been prepared (*après l'établissement du rôle*).

#### CHAPTER II. ASSESSMENT OF INCOME RECEIVED BY PERSONS NOT DOMICILED IN FRANCE

ART. 74. Salaries, allowances, remunerations, and wages paid for services rendered in France to persons domiciled outside of France, and pensions or life annuities paid to such persons, shall be assessed in the manner hereafter specified.

ART. 75. The tax shall be collected by withholding it at the time of payment from the net taxable sum paid.

The net taxable income shall be determined by an arbitrarily estimated deduction from the sums paid, which shall be 20 percent in the case of salaries, wages, and other remunerations, and 10 percent in the case of pensions and life annuities.

In computing the tax, the reduced rate provided for hereafter in article 137 shall be applied.

ART. 76. Employers and payors of annuities shall be required to withhold the tax on behalf of the Treasury

During the first 10 days of each month, they shall pay into the Treasury the sums withheld from payments made by them during the preceding month.

Persons who do not pay into the Treasury within the prescribed time the tax which they are required to withhold, or who fail to pay in all that is due, shall be personally assessable with the unpaid taxes together with a penalty of 25 percent.

The tax thus increased shall be entered into the tax roll and shall be collectible at any time up to the end of the fourth year following the year during which the taxable income was paid.

ART. 77. An ordinance shall determine the measures necessary for carrying out the provisions of arts. 74-76.



# **TITLE IV. TAX ON PROFITS FROM NONCOMMERCIAL OCCUPATIONS (IMPÔT SUR LES BÉNÉFICES DES PROFESSIONS NON COMMERCIALES)**

## **CHAPTER I. ASSESSMENT OF INCOME RECEIVED BY TAXPAYERS WHO HAVE A PERMANENT PROFESSIONAL ESTABLISHMENT IN FRANCE**

### **SECTION I. PROFITS SUBJECT TO THE TAX**

ART. 78. A yearly tax shall be levied upon profits derived from the exercise of liberal professions, from occupations and office holders who are not tradesmen, and from all other pursuits, lucrative undertakings and sources of profits which are not subject to a specific income tax.

Under this definition the present schedule includes specifically:

Income derived from the letting of hunting rights exclusive of that accruing to public organizations;

Proceeds from the letting of advertising rights when such proceeds are not derived from an industrial or commercial enterprise and thus subject to the tax on industrial and commercial profits;

Mining royalties;

Proceeds from stock-exchange operations regularly transacted by private individuals;

Proceeds from copyright royalties received by authors or composers and by their heirs or legatees;

Proceeds received by inventors from the sale, assignment, or licensing of their patents, trademarks, or manufacturing processes;

Proceeds from bee-keeping and oyster breeding.

### **SECTION II. TAXABLE PROFITS**

ART. 79. The tax shall be levied on the net profits of the year preceding, which profits shall consist of the surplus of the income over the expenses necessary for the exercise of the profession.

The expenses include in particular:

1. The rent of professional premises or, if these are owned by the taxpayer, the net income therefrom on which the land tax is assessed;

2. Payments of debts effected in accordance with the rules applicable in the case of the tax on industrial and commercial profits.

ART. 80. If, in a given year, the deductible expenses exceed the income, such excess may be charged against the profits of subsequent years up to the third succeeding year inclusive, as provided for in the case of industrial and commercial enterprises in article 12.

ART. 81. With respect to literary, scientific, or artistic productions, income from which is not received yearly, the taxable profits may be estimated, at the taxpayer's request, on the basis of the average receipts during the preceding 3 years after deducting the average expenses of these [3] years. Taxpayers who once adopt this system of estimated assessment may not change their choice subsequently.

### **SECTION III. TAXABLE PERSONS.—THE PLACE OF ASSESSMENT**

ART. 82. The tax shall be assessed in the name of the recipient of the taxable income, at the place where the profession is exercised or, if such be the case, at the place of the principal establishment.

In the case of partnerships, each partner shall be personally assessed with respect to the partnership profits corresponding to his share in the partnership.

In the case of limited partnerships, the tax shall be assessed in the name of each of the active partners for their respective shares of the profits, and in the name of the partnership for the remainder.

The assessments thus entered in the tax-rolls in the names of the partners nevertheless shall remain debts of the firm.

#### SECTION IV. COMPUTATION OF THE TAX

ART. 83. In the computation of the tax, parts of the income not exceeding 100 francs shall be disregarded.

The tax shall be levied only on the part of the net profits which exceeds 10,000 francs.

The general rate provided hereafter in article 137 shall be applied.

The tax computed in accordance with these provisions shall be reduced if the taxpayer has dependents, as provided for hereafter in article 102.

Notwithstanding the preceding provisions, the tax on income from occupations and offices indicated in article 78 shall be computed in accordance with the provisions of article 22, as in the case of commercial professions.

#### SECTION V. DECLARATIONS

ART. 84. Every person liable for the tax on profits acquired from the exercise of the professions indicated in article 78 shall submit, during the first 2 months of each year, a declaration stating the amount of his gross earnings, that of his professional expenses, and the amount of his net profits in the preceding year.

Taxpayers who have chosen the system provided for in article 81 shall state the amount of gross earnings and professional expenses of each of the preceding 3 years and the net profits, which consist of the surplus of the average of these earnings over the average of these expenses.

ART. 85. The declaration shall be submitted to the assessor of direct taxes in the place where the taxpayer exercises his profession or where he has his principal establishment.

A receipt shall be given [to the taxpayer] for the declaration.

#### SECTION VI. THE VERIFICATION OF DECLARATIONS

ART. 86. The assessor may request the taxpayer to submit information necessary to prove the accuracy of the figures reported. If he deems the information submitted inadequate, he shall assess the tax and shall notify the taxpayer of the figure which he intends to substitute for that contained in the declaration, stating the reasons which appear to him to justify the rectification; he shall invite the taxpayer at the same time to submit within 20 days, if the taxpayer wishes, his observations either orally or in writing.

If no agreement is reached, the matter shall be submitted to a commission sitting in the capital of the department, which shall be com-

posed and shall function in accordance with the provisions of articles 87 and 88.

ART. 87. I. The commission provided for in article 86 shall be composed as follows:

The president of the civil tribunal <sup>10</sup> sitting in the capital of the department or a judge designated by him who shall be president;

A chief inspector or an inspector of direct taxes;

A chief inspector or an inspector of indirect taxes, a collector of the registry tax, and a collector of direct taxes, each of whom shall be designated by their respective heads of services from among officials serving in the capital of the department;

Two taxpayers, one of whom shall be designated by the director of direct taxes from among the assessors of the capital of the department, the other by the professional association from among the representatives of the profession concerned. These two members, together with the Government officials, shall hold in confidence what they learn in the discharge of their duties, as provided hereafter in article 143.

II. The commission may sit in sections, each of these sections being presided over by the president of the commission or by a judge designated to substitute for him. The sections shall hear the cases referred to them by the president of the commission. They shall be governed by the rules laid down hereafter in article 88.

ART. 88. At least three members including the president are required to be present for the validity of the commission's deliberations. In the case of a tie, the president shall have the deciding vote.

The commission shall meet when called by the president.

The taxpayers shall be notified at least 10 days before the meeting, and shall be invited to appear or to file their written observations. They can be assisted by a person of their choice or represented by a duly qualified agent.

After having heard the taxpayer's explanations or having taken note of his [written] observations, the commission shall render a duly reasoned decision determining the basis of assessment. It shall also decide the application of the penalty provided for hereafter in article 90.

ART. 89. The decision of the commission shall be given to the taxpayer, who may appeal therefrom after the tax roll has been prepared by submitting proofs of his true profits.

#### SECTION VII. PENALTY IN THE CASE OF INACCURATE DECLARATION

ART. 90. The taxpayer who does not fully disclose his income shall be required, unless he can prove his good faith, to pay, in addition to the tax due on the true amount of his taxable income, an amount equal to four times the part of the tax due on his undeclared income. However, this penalty shall only be imposed if the inaccuracy discovered is greater than one-tenth of the taxable income or exceeds 20,000 francs.

#### SECTION VIII. FAILURE TO FILE A DECLARATION

ART. 91. Every taxpayer who is liable for the filing of the declaration provided for in article 84 and who fails to submit such a declaration in the first 2 months of the year shall be assessed on the basis

<sup>10</sup> The tribunal civil is the court of first instance with general jurisdiction.



of an arbitrary estimate, subject to his right of appeal after the tax roll has been prepared. The tax thus assessed shall be increased by 25 percent.

SECTION IX. ACCOUNTS—STATUTORY BOOKKEEPING—RIGHT OF ACCESS  
TO THE BOOKS

ART. 92. Taxpayers subject to the tax on profits from noncommercial occupations shall be required to keep an account book which shall show day by day their professional receipts. This book shall be kept day by day, without blank spaces, omissions, or marginal notes.

In the case of professions bound by the duty of professional secrets, the accounts may state only the details of the amounts collected daily.

The assessor may request access to the accounts and to all other supporting documents.

ART. 93. Public officers who are required by law to keep books shall submit such books at every request by the assessor in support of the statements contained in their declarations.

ART. 94. In the case of failure to submit the books which are required to be kept by the two preceding articles, the taxable income shall be estimated by the assessor, and the tax thus assessed shall be increased by 25 percent.

CHAPTER II. ASSESSMENT OF INCOME RECEIVED BY TAXPAYERS WHO  
HAVE NOT A PERMANENT PROFESSIONAL ESTABLISHMENT IN  
FRANCE

ART. 95. Sums paid to persons or companies which have no professional establishments in France in remuneration for services rendered in France in the exercise of one of the professions indicated above in article 78 and profits, income, proceeds, and royalties enumerated in the said article acquired by such persons or companies in France shall be assessed according to the rules laid down hereafter.

ART. 96. The tax shall be collected by withholding it from the net taxable sum paid at the time of payment.

The net taxable income shall be determined by deducting from the sums paid an arbitrary estimate of 20 percent.

In computing the tax, the general rate provided for hereafter in article 137 shall be applied.

ART. 97. Individuals, companies, and associations which pay the taxable income shall be required to withhold the tax on behalf of the Treasury.

They shall pay into the Treasury, in the first 10 days of each month, the sums withheld from payments made by them during the preceding month.

Persons who do not pay into the Treasury within the prescribed time the tax which they are required to withhold, or who fail to pay in all that is due, shall be personally assessable with the unpaid taxes together with a penalty of 25 percent.

The tax thus increased shall be entered in the tax roll and shall be collectible at any time up to the end of the fourth year following the year during which the taxable income was paid.

ART. 98. In the case of artists of theaters or of music halls, musicians and other artists who are not domiciled in France and who give occasionally representations or concerts in France under their own

management, the tax shall be levied on three-quarters of the actual income after deducting the fees and taxes imposed on admissions. It shall be paid at the same time as the amusement tax (*taxe sur les spectacles*) or, if that tax is not due, at the same time as the poor rate tax.

ART. 99. An ordinance shall determine the measures necessary for carrying out the provisions of articles 95–98.

## TITLE V. COMMON PROVISIONS APPLICABLE TO THE VARIOUS SCHEDULED TAXES

### SECTION I. ASSESSMENT OF TAXPAYERS RECEIVING PROFESSIONAL INCOME FROM DIFFERENT SOURCES

ART. 100. If an industrial or commercial enterprise extends its operations into fields subject to the agricultural-profit tax or to the tax on noncommercial profits, the income from such operations shall be determined according to the rules applicable to the tax on industrial and commercial profits and shall be taken into account in the assessment of that tax.

ART. 101. If a taxpayer receives income on the one hand from profits taxable, by virtue of article 23, according to the tax rate applicable to salaries and wages, and, on the other hand, he receives income from public and private salaries, allowances, and remunerations, wages, pensions, and life annuities, he shall be assessed on the ground of a single rate [i. e., under title III of the code, *supra*] on his total income derived from these sources, which income [however] shall be determined according to the method applicable to each category.

If a taxpayer receives income from [either of the above two sources, namely] public and private salaries, allowances or remunerations wages, pensions, and life annuities, or from profits taxable by virtue of article 23, according to the tax rate applicable to salaries and wages, and he also receives income from the exercise of noncommercial professions (excepting income of office holders), his tax shall be assessed on the ground of a single rate for his total income; such total income shall be determined according to the method applicable to each category of his income, and the single rate to be applied shall be the rate of the tax due on that category of his income which is the greater.

### SECTION II. REDUCTION FOR DEPENDENTS

ART. 102. Reductions for dependents from the taxes on industrial and commercial profits, on agricultural profits and on profits from noncommercial occupations, by virtue of the provisions of articles 22, 56, and 83, shall be governed by the following rules:

Ten percent for each of the first two dependent children;

Thirty percent for each subsequent dependent child.

The total amount of reductions from each of these taxes may not exceed 800 francs for each dependent child.<sup>11</sup>

Dependent children shall be considered as those defined hereafter in article 116, with respect to the general-income tax.

<sup>11</sup> Art. 48, par. 2, of the ordinance of July 8, 1937, issued by virtue of the act of June 30, 1937, conferring extraordinary powers on the Government in order to cope with the financial and economic crisis (*Journal Officiel*, July 9, 1937, Annex No. 306) provided that for the fiscal year 1938, the reduction allowed on account of dependent children by art. 102 of the Code of Direct Taxes shall be increased by one-sixth—that is to say—the maximum amount of reduction for each dependent child was raised to 933 francs.

ART. 103. In order to avail himself of the right of reduction for dependents, the taxpayer shall be required to submit to the assessor in the place of his domicile a declaration containing the names, and the date and place of birth of each of his dependent children.

The declaration shall also state the taxes from which these reductions are permissible and the places where these taxes are to be assessed.

The declarations shall be submitted within the time prescribed hereafter in article 123, with respect to the general-income tax; they shall remain valid as long as the statements therein contained continue to be exact; in the contrary case, a new declaration shall be submitted within the time above specified.

## TITLE VI. GENERAL INCOME TAX (IMPÔT GÉNÉRAL SUR LE REVENU)

### SECTION I. TAXABLE PERSONS

ART. 104. There shall be levied a general tax on income.

ART. 105. The general-income tax shall be due, on January 1 of each year, from every person who has a permanent residence (*résidence habituelle*) in France.

The following shall be considered as having a permanent residence in France:

1. Persons who maintain there a dwelling place as owners, tenants for life, or tenants; in the latter case, only if the lease is concluded either by a single agreement or by several successive contracts, for an uninterrupted period of at least 1 year;

2. Persons who, without maintaining in France a dwelling place such as is described in the preceding paragraph, nevertheless sojourn principally in France.

ART. 106. The tax shall be assessed on every head of the family not only with respect to his personal income, but also with respect to income received by his wife, and other members of his family who live with him.

However, the taxpayer may claim separate assessment with respect to:

1. His wife when she does not live with him and has control over her own property (*séparée de biens*);

2. His children or other members of his family, except his wife, when they receive an income from their own labor or from other sources independent of those of the head of the family.

A married woman shall be assessed separately with respect to her income received during the year of her marriage, up to the date of such marriage.

### SECTION II. PERSONS EXEMPT FROM THE TAX

ART. 107. The following shall be exempt from the tax:

1. Persons whose taxable income does not exceed 10,000 francs; [this exempt minimum shall be] increased in proper cases with an amount equal to the deductions which may be claimed under article 115 on account of status or dependents;

2. Ambassadors and other diplomatic officers, consuls, and consular agents of foreign nationality, to the extent that the countries which they represent grant similar exemptions to French diplomatic and consular officers.



## SECTION III. THE PLACE OF ASSESSMENT

ART. 108. If the taxpayer has a single residence, the tax shall be assessed at the place of such residence.

If the taxpayer has several residences, the tax shall be assessed at the place where he is reputed to maintain his principal establishment.

## SECTION IV. TAXABLE INCOME

ART. 109. The tax shall be assessed on the total net yearly income received by each taxpayer. This net income shall be determined by taking into account the property and the capital owned by the taxpayer, the profession which he exercises, and the salaries, wages, pensions, and life annuities which he receives, together with the profits derived from any lucrative transactions in which he is engaged and after allowing the deductions hereafter specified, provided that such deductions are not taken into account when determining the amount of incomes subject to any of the scheduled taxes:

1. Interest on loans and debts paid by the taxpayer;
2. Annuities paid by the taxpayer under a legal obligation and without consideration;
3. All direct taxes and assimilated taxes paid by him or payable by virtue of his declarations filed within the prescribed time during the preceding year, except fines imposed for failure to file, or for filing an inaccurate, declaration. If any of these taxes is subsequently reduced, the amount of such reduction shall be reported as income in the year in which notice of such reduction is received by the taxpayer;
4. Contributions made by the taxpayer to social insurance;
5. Payments made for veterans' pensions provided for by the act of August 4, 1923, and by article 127 of the act of December 30, 1928;
6. In the case of the transfer or discontinuance of an enterprise, the deficit incurred during the period of liquidation, account being taken of losses of the preceding 5 years which could not be charged against the income subject to the scheduled tax.

ART. 110. In determining the taxable income the following shall not be taken into account:

1. Pensions, allowances, and grants exempt from the scheduled tax by virtue of article 61;
2. Interest on Treasury bonds (bons du Trésor) maturing in 1 year or less; national defense bonds maturing in 2 years or more; and special short-term obligations, maturing in 1 year or less, issued for the benefit of the pension fund by virtue of article 115, section 2 of the act of December 31, 1936;
3. Payments on the 4 percent perpetual annuities (rentes), issued in 1925;
4. Interest on secured loans referred to above in article 8b;
5. Income received from property classified as historical monuments, under conditions to be determined by administrative regulation.

ART. 111. The net income derived from the various sources enumerated in article 109 shall be determined each year according to their respective yields during the preceding year.

This income shall consist of the surplus of the gross income actually received, including the value of all benefits and advantages in kind

enjoyed by the taxpayer, over the expenses incurred in the acquisition and in the preservation of such income.

Net income from both buildings and grounds, the enjoyment of which the taxpayer has reserved for himself or which he cultivates himself directly or through a farmer-tenant, shall be determined according to the rules applicable to the assessment of land taxes. In the case of leased property, it shall be determined by deducting from the gross income:

(a) An estimated reduction of 20 percent for the costs of management, insurance and amortization;

(b) A sum equal to that expended for works executed for the upkeep of immovables.

Profits derived from the exercise of industrial, commercial, or handicraft professions, mining enterprises, agriculture and noncommercial professions, and income received from public and private salaries, allowances and remunerations, wages, pensions, and life annuities shall be determined according to the rules applicable to the assessment of the various scheduled taxes to which they are respectively subject.

However, in the case of industrial, commercial, handicraft, or agricultural enterprises which are assessed with the scheduled tax on the basis of real income and whose aggregate return includes income falling under several of the scheduled taxes or includes income derived from enterprises situated outside of France, only the aggregate return shall be taken account of, without regard to the different items of the return required hereafter by article 119. When the aggregate financial statement of such enterprises shows a deficit, the total deficit of such a fiscal year may, for the purpose of assessment of the general income tax, be reported in the aggregate returns for 5 successive fiscal years under the conditions provided for above in article 12.

ART. 112. Sums received [by the taxpayer] from French or foreign companies in consequence of the total or partial redemption or amortization of their stocks, shares, or invested capital before their dissolution or liquidation shall be subject to the general income tax, if such sums are subject to the scheduled tax on income from securities and investments by virtue of article 50, paragraph 3, of the Code of Securities and Investments Tax.

The distribution of profits or reserves in the form of capital issues shall also be subject to the general income tax.

ART. 113. Managing partners of partnerships limited by shares (*sociétés en commandite par actions*) shall not be taxed on their shares in the partnership profits earmarked for reserve funds until such reserves are distributed. On the other hand, sums allotted to them in remuneration of their services or in consideration of their initial share in the undertaking shall be subject to the general income tax even though the results of the company's fiscal year show a deficit.

#### SECTION V. TAXABLE INCOME OF ALIENS AND OF PERSONS NOT DOMICILED IN FRANCE

ART. 114. In the case of taxpayers of foreign nationality who have in France either their domicile or one or more residences, the taxable income shall be fixed at a sum equal to five times the rental value of the dwelling place or places which they maintain in France, unless such taxpayers and the members of their family, indicated in article 106, receive a larger income from property or business situated, or a

profession exercised, in France; in such cases, the tax shall be levied on this latter figure.

Taxpayers of French nationality who do not have their domicile in France but have there one or more residences shall be taxed according to the rules laid down in the first paragraph of the present article.

Taxpayers domiciled in Algeria or in one of the colonies where a tax is levied on aggregate income may be exempt from the general income tax in the mother country by reason of their secondary residence there, on the condition of reciprocity.

#### SECTION VI. DEDUCTIONS JUSTIFIED BY THE STATUS OF THE TAXPAYER AND BY DEPENDENTS

ART. 115. Married taxpayers shall have the right to deduct from their yearly income 5,000 francs.

In the case of death of one of the spouses, the same deduction shall be allowed the surviving spouse who does not remarry and who supports, as specified hereafter in article 116, one or more dependent children issued from the marriage.

Moreover, every taxpayer shall have the right to deduct from his yearly income, on account of dependent children as specified in article 116, the following sums:

5,000 francs for each of the first two children;

10,000 francs for the third child;

15,000 francs for the fourth child and for each subsequent child.

The deductions allowed by the present article shall be reduced by one-fifth when the [yearly] aggregate net income is between 75,000 and 150,000 francs; two-fifths when this income is between 150,000 and 300,000 francs; three-fifths when it is between 300,000 and 600,000 francs; and four-fifths when such income exceeds 600,000 francs.

ART. 116. The following shall be considered as dependents of the taxpayer, provided that they have no independent income:

1. His children who are less than 21 years of age or who are disabled;
2. Under the same conditions, children [not his own] living in his household and supported by him.

#### SECTION VII. COMPUTATION OF THE TAX

ART. 117. In computing the tax, parts of the income below 1,000 francs shall be disregarded.

After the deductions allowed by article 115 and the sum of 10,000 francs which is wholly tax exempt, the tax shall be computed by applying to the taxable income the following rates:

1. Taxable income not exceeding 10,000 francs: 1 percent;
2. Taxable income between 10,000 and 70,000 francs: 1 to 4 percent, progressively increasing by  $\frac{5}{100}$  percent for each 1,000 francs;
3. Taxable income between 70,000 and 170,000 francs: 4 to 13 percent, progressively increasing by  $\frac{9}{100}$  percent for each 1,000 francs;
4. Taxable income between 170,000 and 270,000 francs: 13 to 18 percent, progressively increasing by  $\frac{5}{100}$  percent for each 1,000 francs;
5. Taxable income between 270,000 and 420,000 francs: 18 to 24 percent, progressively increasing by  $\frac{4}{100}$  percent for each 1,000 francs;
6. Taxable income between 420,000 and 620,000 francs: 24 to 30 percent, progressively increasing  $\frac{3}{100}$  percent for each 1,000 francs;



7. Taxable income between 620,000 and 920,000 francs: 30 to 36 percent, progressively increasing 2/100 percent for each 1,000 francs;
8. Taxable income between 920,000 and 1,320,000 francs: 36 to 40 percent, progressively increasing 1/100 percent for each 1,000 francs;
9. Taxable income exceeding 1,320,000 francs: 40 percent.<sup>12</sup>

ART. 118. In the case of taxpayers over 30 years of age who are bachelors, widows, or who are divorced and who have no children of their own or other dependents supported under the conditions laid down in article 116, the amount of the tax shall be increased by 30 percent.

In the case of taxpayers over 30 years of age, married for more than 2 years on January 1 of the year of assessment, who have no children of their own or other dependents supported under the conditions laid down in article 116, the amount of the tax shall be increased by 15 percent.

These increases shall not apply to female taxpayers whose net income does not exceed 75,000 francs.

The increases provided for in the present article shall not apply to taxpayers who receive a disability pension of 40 percent or more under the act of March 31, 1919; nor to taxpayers whose children are all dead.<sup>13</sup>

#### SECTION VIII. DECLARATION OF TAXABLE INCOME

ART. 119. 1. Every taxpayer liable for this tax shall be required to file, and to renew each year, a sworn declaration of his aggregate income, indicating the nature of the income and the sources from which it is derived, according to the following distinctions:

Income from buildings (*propriétés urbaines*);

Income from lands (*propriétés rurales*);

Income from securities and investments received from:

(a) Stocks and shares, founders' shares, private and Government bonds;

(b) Percentage of profits and vouchers for attendance at meetings;

(c) Shares in partnerships or in limited liability companies;

(d) Trusts, bank deposits, surety bonds, or other investments;

Profits from the exercise of industrial, commercial, or handicraft professions or from mining operations;

Agricultural profits;

Public or private salaries, allowances, remunerations and wages;

Profits from the exercise of noncommercial professions.

The declaration shall indicate separately the amount of income, irrespective of its nature, received directly or indirectly from abroad.

2. The following persons shall be required to file [a declaration], irrespective of the amount of their income:

<sup>12</sup> The above progressive rates were incorporated in art. 117 of the Code of Direct Taxes by the act of December 31, 1936, concerning fiscal reforms, art. 37 (*Journal Officiel* of January 1, 1937, annex No. 285). Art. 37 of this act also provided that the effective tax rate on the aggregate net income (before deducting, however, the general income tax paid in the preceding year), computed by applying this progressive scale, shall not exceed 30 percent.

The tax rates were temporarily increased by the ordinance of July 9, 1937, issued by virtue of the act of June 30, 1937, conferring extraordinary powers on the French Government in view of the financial crisis. Arts. 24 and 25 of this ordinance (*Journal Officiel* of July 9, 1937, annex No. 306), provided that for the years 1937 and 1938 the general income tax assessed on the basis of the above scale shall be increased by 20 percent. Taxpayers whose net income, after deductions justified by status or by dependents, does not exceed 20,000 francs shall be exempt from this increase. For these 2 years, the effective tax rate on the aggregate net income (before deducting, however, the general income tax paid in the preceding year), computed by applying the progressive scale of art. 117 of the code, is raised from 30 to 36 percent.

<sup>13</sup> Art. 25 of the ordinance of July 9, 1937, referred to in note 12, provided that the tax increases provided for in art. 118 of the Code of Direct Taxes shall be computed, for the years 1937 and 1938, on the basis of the higher tax rate in effect during these 2 years.

Those who own a passenger automobile or a yacht;

Those who maintain an additional dwelling place in France or abroad, either permanently or temporarily;

Those who have a principal dwelling place whose rental value exceeds:

6,000 francs in Paris and its suburbs within 30 kilometres;

3,000 francs in towns with more than 50,000 inhabitants;

1,500 francs in other communities.

In the case of persons indicated in article 114, only the incomes defined in the first and second paragraphs of the said article need be declared.

ART. 120. Taxpayers shall be required to furnish all information indicative of their status and of the persons dependent on them.

Moreover, in order to be allowed the deductions claimed by virtue of article 109, they shall submit a statement of expenses and charges to be deducted from their aggregate income by virtue of the said article.

This statement shall specify:

With respect to debts and annuities paid under a legal obligation: the name and domicile of the creditor; the nature and date of the evidence of indebtedness; in proper cases, the name and address of the public officer who prepared the document or the court which rendered the decision; and, the amount of yearly interest and arrears;

With respect to direct and assimilated taxes: The nature of each tax, the place of assessment, the entry in the tax roll, and the amount of assessment.

ART. 121. Taxpayers shall be required, moreover, to declare the following data:

The rent or rental value and the address (1) of their principal dwelling place; (2) of their additional residences in France or abroad;

Female domestic servants;

Male domestic servants;

Passenger cars and their horsepower.

The data to be reported shall refer to the status of the taxpayer and of the members of his family indicated in article 106, during the preceding year.

ART. 122. The declarations shall be written on, or according to, the form prescribed by a departmental order of the Minister of Finance.

The declarations, duly signed, shall be filed with the assessor of direct taxes, who shall give a receipt therefor.

ART. 123. The declarations shall be filed in the first 2 months of each year. However, this time limit is extended until March 31 in the case of industrialists and merchants who are subject to the tax on industrial and commercial profits and who closed their accounts of the fiscal year in December of the year preceding the assessment.

#### *Detailed Declaration of Assets Abroad*

ART. 124. All persons of French nationality, domiciled or habitually residing in France who own real or personal property abroad shall be required to submit to the assessor of direct taxes, within the time specified in article 123, a detailed declaration indicating the nature and the value of such property and the income therefrom. The filing of such

declaration is compulsory irrespective of whether or not the taxpayer is liable for the general income tax.

The declaration regarding both assets and income shall be made under oath.

#### SECTION IX. THE VERIFICATION OF DECLARATIONS

ART. 125. The assessor shall verify the declarations.

He may request explanations from the taxpayer.

He may, moreover, request proofs concerning: (a) the taxpayer's status and persons dependent on him; (b) the deduction of charges from the aggregate income claimed by virtue of article 109.

He may also request further proofs when he has information showing that the taxpayer may have a greater income than that disclosed in the declaration. Particularly, if the taxpayer alleges the ownership of bonds or securities whose interest or dividends are, by virtue of article 110, excluded from the categories of taxable income, the assessor may demand proof of ownership of such securities and evidence of the date when such ownership was acquired by the taxpayer.

ART. 126. The explanation and proofs referred to in the preceding article may be requested orally or in writing.

If the taxpayer refuses to reply to an oral request, or if the assessor regards the reply to such request as being equivalent to a refusal to answer all or part of the questions, the assessor shall repeat his request in writing.

All written requests shall indicate precisely the points on which the assessor deems it necessary to obtain explanation or proofs, and shall set a time limit, not less than 15 days, in which the taxpayer is required to answer.

ART. 127. The assessor shall have the right to rectify the declarations, but he shall be required to notify the taxpayer in advance as to the figure on which he intends to assess the tax, and he shall invite the taxpayer to appear or to notify in writing his acceptance or opposition within 20 days.

#### SECTION X. ARBITRARY ASSESSMENT (TAXATION D'OFFICE)

ART. 128. The following shall be assessed arbitrarily [by the tax administration]:

1. Every taxpayer who does not file his declaration and whose net income determined in accordance with articles 109-113 exceeds the tax-exempt minimum (after deduction of basic exemptions and allowances for family status and dependents);

2. Every taxpayer whose personal expenses plus his income in kind are ostensibly and of common knowledge higher than the tax exempt minimum and who has failed to file a declaration; or whose declared income is, after deduction of the charges enumerated in article 109, below the aggregate of the same expenses and income in kind. In the case of such taxpayers, the tax shall be assessed, in default of precise information indicating a higher income, on a sum equal to the amount of expenses and income in kind, from which shall be deducted income exempt from the tax by virtue of article 110. In the case referred to in the present paragraph, the assessor shall notify the tax-



payer of the assessment before the preparation of the tax roll; the taxpayer shall have 20 days for filing his observations.

ART. 129. In the case of disagreement with the assessor, the taxpayer who was thus arbitrarily assessed may not sue for a reduction of the assessment except by submitting proof that such assessment is excessive. He shall bear all costs, including those of an expert's report, if one is required. However, if the assessment fixed by the competent court is not more than 10 percent higher than the figure submitted by the taxpayer, costs shall be borne by the State.

#### SECTION XI. INCREASE OF THE TAX AND OTHER PENALTIES FOR LACK OR INACCURACY OF DECLARATIONS

ART. 130. The amount of the tax shall be increased by 25 percent in the case of a taxpayer who has not filed a declaration within the time prescribed in article 123.

If a taxpayer has failed to disclose at least one-tenth of his income, the tax due on the undisclosed income shall be increased likewise [by 25 percent]. Unless the taxpayer can prove his good faith, the tax due on the undisclosed part of the income shall be increased four-fold [i. e., 400 percent], provided that the concealed part exceeds one-tenth of the taxable income, or exceeds 20,000 francs.

ART. 131. A taxpayer who receives income from abroad, directly or indirectly, and who does not indicate in his declaration such income separately, in compliance with the last paragraph of section 1 of article 119, shall be deemed to have failed to report such income, and shall be required to pay the corresponding tax increased by 400 percent.

If the concealment was intentional, the taxpayer shall be punished, moreover, with the penalties provided for hereafter in article 146.<sup>14</sup>

ART. 132. Every omission or inaccuracy in the declaration concerning the expenses enumerated in article 121 shall be punished by imposing the fine provided for in article 71.

The same fine may be imposed on persons who failed to comply with the requirements of article 119, paragraph 2, within the prescribed time.

ART. 133. The filing of a knowingly inaccurate declaration concerning assets abroad, provided for in article 124, or the failure to file a declaration shall be punished—in addition to the penalties provided for in article 366 of the Criminal Code<sup>15</sup>—by a fine equal to the undisclosed assets. This penalty shall not prejudice the posting of the name of the delinquent and the reasons for his breach of the law at the mayor's office in the town where the fine was imposed.

Proceedings shall be instituted upon complaint by the administration of direct taxes without it being necessary to summon beforehand the taxpayer to file or to complete his declaration.

<sup>14</sup> Art. 24 of the ordinance of July 9, 1937, referred to in note 12, concerning fiscal reforms, which raised temporarily the general income tax during 1937 and 1938, also provided that the increases specified in arts. 130 and 131 of the code shall be computed, during the 2 years, on the basis of the higher tax.

<sup>15</sup> Art. 366 of the Criminal Code provides penalties for perjury in civil actions: imprisonment for 1 to 5 years, and fine of 100 to 3,000 francs; a person found guilty of perjury may, moreover, be deprived, for a period of from 5 to 10 years, of the exercise of his civil rights, and may be placed under police supervision.

Articles 59, 60, and 463 of the Criminal Code <sup>16</sup> shall apply to the misdemeanor (*délit*) specified in the present article.<sup>17</sup>

## SECTION XII. SPECIAL PROVISIONS FOR ASSESSMENT AFTER THE DECEASE OF TAXPAYERS

ART. 134. When, in settling the estate of a deceased taxpayer, it is discovered that he has not been or has insufficiently been assessed in the year, or in any one of the three years preceding his death, the uncollected taxes (in proper cases together with the penalties provided for in art. 130) may be collected at any time up to the end of the second year following the year in which the petition for the settlement of the estate was filed, without prejudice to the time-limit for rectification provided for hereafter in article 139; or if no petition was filed, following the year in which the heirs paid the inheritance tax (*droits de mutation par décès*).

Income received by the taxpayer during the year of his death and the industrial and commercial profits he acquired during the last fiscal year for which he paid the tax shall be assessed according to the rules in force on January 1 of the year of his death. Income distributed or paid in consequence of the taxpayer's death (unless the tax was previously assessed) and income which the taxpayer acquired but did not receive before his death shall be assessed in the same manner as above. In the case of incomes which are arbitrarily estimated, the yearly estimate shall be reduced in proportion to the time elapsed between January 1 and the date of decease.

The declaration of incomes taxable by virtue of the preceding paragraph shall be filed by the heirs of the deceased within 6 months from the date of decease. The rules and sanctions provided for the filing of yearly declarations shall apply.

ART. 135. The aggregate amount of taxes assessed by virtue of the preceding article may not exceed three-quarters of the net assets of the estate before the payment of the inheritance tax.

Taxes assessed by virtue of the said article and all other assessments shall constitute a debt to be deducted from the assets of the estate when computing the inheritance tax. However, they shall not be deductible from the income of the heirs when computing their general-income tax.

<sup>16</sup> Art. 59 of the Criminal Code provides that the accomplice to a crime or a misdemeanor shall be punished with the same penalties as the perpetrator himself. Art. 60 sets forth the conditions under which a person should be regarded as an accomplice.

Art. 463 empowers the court to impose lighter sentences in the light of extenuating circumstances upon the recommendation of the jury.

<sup>17</sup> The ordinances of July 9, 1937, Art. 4, concerning fiscal reforms referred to in Note 12, contains the following provisions concerning these penalties:

"The fines (except those specified in Art. 366 of the Criminal Code) provided for in Art. 133 of the Code of Direct Taxes shall hereafter be imposed by the director of direct taxes; they shall be entered in the tax roll and shall be collectible at any time up to the end of the third year following the year for which the declaration has or should have been filed.

"The imposition of the fine may be challenged before the departmental administrative court within three months from the first of the month following the entry of the assessments in the tax roll. The complaint shall be submitted, heard and decided in accordance with Arts. 369 and following of the Code of Direct Taxes.

"If the delinquent dies, the fine shall remain a debt of the estate and the heirs shall be liable.

"The time allowed the administration of direct taxes in which to request the application of penal sanctions provided for in Art. 133 of the Code of Direct Taxes expires a year after the time limit specified in the first paragraph of the present article."

## SECTION XIII. PUBLICITY MEASURES

ART. 136. The list of taxpayers subject to the general-income tax shall be deposited by the directorate of direct taxes of each department in the mayor's office where the taxpayer is domiciled, and shall be open for inspection to all taxpayers of the community. Taxpayers having several residences may request, when filing their declarations, that their names be communicated to the mayors of these residences.

Total or partial publication of these lists shall be punished with imprisonment of from 1 to 5 years and a fine of from 1,000 to 10,000 francs, or with one of these two penalties.

## TITLE VII. GENERAL PROVISIONS [APPLICABLE TO INCOME TAXES]

## SECTION I. RATES OF THE SCHEDULED TAXES AND OF THE GENERAL-INCOME TAX

ART. 137. The scheduled taxes shall be computed by applying the general rate provided for in article 2 of the act of July 6, 1934.<sup>18</sup>

This general rate shall be reduced by one-half in the computation of:

1. The tax on industrial and commercial profits due from individuals and partnerships when their profits do not exceed 10,000 francs, and the tax due from taxpayers enumerated in article 23;
2. The tax on salaries and wages, pensions, and life annuities.

## SECTION II. DEPENDENTS—TAXPAYERS OF FOREIGN NATIONALITY

ART. 138. Without prejudice to reciprocity treaties which are at present in force or which may in the future be concluded between France and foreign countries,<sup>19</sup> reductions of the tax or of the tax rate, basic exemptions, and statutory deductions allowed for dependents shall be applicable only to French nationals and to natives of French colonies or protectorates.

## SECTION III. RECTIFICATION OF ASSESSMENTS

ART. 139. Total or partial omissions discovered in the assessment of any of the taxes provided for above in titles I to IV and VI, and errors committed in the application of the tax rates, may be rectified at any time up to the end of the third year following the year for which the tax was due.

Every error committed concerning the applicable scheduled tax or concerning the place of assessment with respect to any of the above taxes may be rectified at any time up to the end of the year following the year of the decision which ordered the cancellation of the original assessment, without prejudice, however, to the time-limit laid down in the preceding paragraph.

<sup>18</sup> The general rate in force since the act of July 6, 1934, was 12 percent. Art. 48 of the ordinance of July 9, 1937, concerning fiscal reforms, referred to in note 12, provides that, for 1938, the general rate of scheduled income taxes shall be fixed at 14 percent.

<sup>19</sup> Reciprocity treaties and arrangements are at present in force with the following countries: United States, Andorra, Argentina, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Estonia, Finland, Germany, Great Britain, Greece, Guatemala, Haiti, Honduras, Hungary, Italy, Japan, Latvia, Liberia, Lithuania, Luxembourg, Mexico, Netherlands, Nicaragua, Norway, Panama, Paraguay, Persia, Peru, Poland, Portugal, Rumania, Siam, Spain, Sweden, Switzerland, Turkey, Venezuela, Yugoslavia.



The commissions provided for in articles 14, 18, 53b, and 86 of this code and constituted in pursuance of regulations in force on January 1 of each year shall have jurisdiction over disputes relating to assessments.

#### SECTION IV. CHANGE IN THE PLACE OF ASSESSMENT

ART. 140. If a taxpayer changes the place of the head office of his enterprise, his principal establishment, the place where he exercises his profession, his domicile, or his principal residence, the taxes for which he is liable may be assessed at the new place with respect to the income he received both in the fiscal year during which the change occurred and in previous years unless barred by the statute of limitations.

#### SECTION V. COLLECTION OF TAXES—PROTESTS—PROFESSIONAL SECRETS

ART. 141. The rolls of the taxes provided for above in titles I to IV and VI shall be prepared and collected as direct taxes.

The wife controlling her own property and living with her husband shall be jointly liable for the payment of the general-income tax assessed in the name of the husband.

However, her liability [for this tax] shall be limited to the proportion of her separate income to the aggregate income of the household during the year for which the tax was assessed, provided that she submits a special declaration showing the amount of the separate income she has received during the said year.

This declaration, for which a receipt shall be given, shall be filed with the assessor of direct taxes within the time prescribed for the filing of declarations relating to the general-income tax.

ART. 142. Protests concerning the taxes provided for above in titles I to IV and VI shall be submitted, heard, and decided as litigations concerning direct taxes.

However, without prejudice to the provisions of article 14, paragraph 4, only agents of the administration of direct taxes shall be called upon to give an opinion concerning such protests which shall be decided in private hearings.

Notwithstanding the provisions of the preceding paragraph, mining engineers may be called upon to give an opinion concerning protests submitted by taxpayers referred to in article 1, paragraph 2, and by quarry enterprises.

ART. 143. (1) Any person called upon because of his office or of his duties to participate in the assessment or collection of the taxes provided for above in titles I, III, IV, and VI, or in litigations relating thereto, shall, in compliance with article 378 of the Criminal Code,<sup>20</sup> hold in confidence what he learned in the discharge of his duties and shall [in case he violates this injunction] be punishable with the penalties laid down in the said Article.

However, if a regular complaint has been filed by the tax administration against a taxpayer and legal proceedings have begun, the agents of the tax administration may not plead before the examining magistrate that they are bound to keep professional secrets when they are examined concerning the subject of the complaint.

<sup>20</sup> Art. 378 of the Criminal Code provides imprisonment of from 1 to 6 months and a fine of 100 to 500 francs for physicians, surgeons, and any other persons who divulge confidential information which was entrusted to them by reason of their profession or function.

The provisions of the present article shall not preclude the exchange of information between the tax administration of the mother country and the fiscal administrations of Algeria, the colonies and protectorates, or of such [foreign] countries which have concluded with France a treaty of mutual assistance in tax matters.

2. The declarations filed by the taxpayers for the assessment of the scheduled taxes, or of the general-income tax, may be used against them in determining compensation or damages which they claim from the State, departments, or municipalities, when the amount of such compensation or damages depends, directly or indirectly, on the amount of their profits or income.

For the application of the present article, the administration of direct taxes shall be released, with regard to the administrative agencies concerned, from the duty of holding in confidence professional secrets.

The plaintiff-taxpayer shall be required to submit, in support of his claim, an extract from the tax-roll or a certificate showing that he was not assessed with any tax, which [extract or certificate] shall be issued by the collector in the place where the taxpayer is domiciled.

ART. 144. Taxpayers shall have no right to request extracts from the tax-rolls of the taxes provided for above in titles I to IV and VI, except insofar as such extract pertains to their own assessment.

ART. 145. Every notice or communication concerning the general-income tax exchanged between the agents of the tax administration or addressed by them to taxpayers shall be sent in a sealed envelope.

An administrative order shall determine the postal exemptions or the special postal rates which are deemed necessary [for these communications].

These provisions shall apply to the scheduled taxes provided for above in titles I to IV.

#### SECTION VI. PENALTIES (PEINES CORRECTIONNELLES)

ART. 146. Whoever shall fraudulently conceal or attempt to conceal, in order to avoid the assessment of the taxes provided for above in titles I to IV and VI, any sums subject to such taxes shall be punishable with a fine of from 1,000 to 5,000 francs, provided that the concealed part is at least 10 percent [of the whole taxable sum]; this penalty shall be without prejudice to the fiscal sanctions provided for above in titles I to VI.

The court may in each case order that the judgment be published in newspapers in whole or in part and posted in places indicated by the court, all at the defendant's expense; however, the costs of publication and posting may not exceed 5,000 francs. The provisions of article 7, last six paragraphs, of the act of August 1, 1905, shall apply.

If the offense is repeated within 5 years, the taxpayer shall be punished with a fine of from 1,000 to 100,000 francs and with imprisonment of from 1 to 6 months; he also may be deprived wholly or in part for not less than 5 and not more than 10 years of his civil rights enumerated in article 42 of the Criminal Code.<sup>22</sup> The posting and

<sup>22</sup> Art. 42 of the Criminal Code provides that persons found guilty of a crime or a misdemeanor may be enjoined from the exercise of their civil rights, i. e., franchise; eligibility to office or to other public functions; serving as a juror, expert, or witness in legal proceedings.

The commissions provided for in articles 14, 18, 53b, and 86 of this code and constituted in pursuance of regulations in force on January 1 of each year shall have jurisdiction over disputes relating to assessments.

#### SECTION IV. CHANGE IN THE PLACE OF ASSESSMENT

ART. 140. If a taxpayer changes the place of the head office of his enterprise, his principal establishment, the place where he exercises his profession, his domicile, or his principal residence, the taxes for which he is liable may be assessed at the new place with respect to the income he received both in the fiscal year during which the change occurred and in previous years unless barred by the statute of limitations.

#### SECTION V. COLLECTION OF TAXES—PROTESTS—PROFESSIONAL SECRETS

ART. 141. The rolls of the taxes provided for above in titles I to IV and VI shall be prepared and collected as direct taxes.

The wife controlling her own property and living with her husband shall be jointly liable for the payment of the general-income tax assessed in the name of the husband.

However, her liability [for this tax] shall be limited to the proportion of her separate income to the aggregate income of the household during the year for which the tax was assessed, provided that she submits a special declaration showing the amount of the separate income she has received during the said year.

This declaration, for which a receipt shall be given, shall be filed with the assessor of direct taxes within the time prescribed for the filing of declarations relating to the general-income tax.

ART. 142. Protests concerning the taxes provided for above in titles I to IV and VI shall be submitted, heard, and decided as litigations concerning direct taxes.

However, without prejudice to the provisions of article 14, paragraph 4, only agents of the administration of direct taxes shall be called upon to give an opinion concerning such protests which shall be decided in private hearings.

Notwithstanding the provisions of the preceding paragraph, mining engineers may be called upon to give an opinion concerning protests submitted by taxpayers referred to in article 1, paragraph 2, and by quarry enterprises.

ART. 143. (1) Any person called upon because of his office or of his duties to participate in the assessment or collection of the taxes provided for above in titles I, III, IV, and VI, or in litigations relating thereto, shall, in compliance with article 378 of the Criminal Code,<sup>20</sup> hold in confidence what he learned in the discharge of his duties and shall [in case he violates this injunction] be punishable with the penalties laid down in the said Article.

However, if a regular complaint has been filed by the tax administration against a taxpayer and legal proceedings have begun, the agents of the tax administration may not plead before the examining magistrate that they are bound to keep professional secrets when they are examined concerning the subject of the complaint.

<sup>20</sup> Art. 378 of the Criminal Code provides imprisonment of from 1 to 6 months and a fine of 100 to 500 francs for physicians, surgeons, and any other persons who divulge confidential information which was entrusted to them by reason of their profession or function.



The provisions of the present article shall not preclude the exchange of information between the tax administration of the mother country and the fiscal administrations of Algeria, the colonies and protectorates, or of such [foreign] countries which have concluded with France a treaty of mutual assistance in tax matters.

2. The declarations filed by the taxpayers for the assessment of the scheduled taxes, or of the general-income tax, may be used against them in determining compensation or damages which they claim from the State, departments, or municipalities, when the amount of such compensation or damages depends, directly or indirectly, on the amount of their profits or income.

For the application of the present article, the administration of direct taxes shall be released, with regard to the administrative agencies concerned, from the duty of holding in confidence professional secrets.

The plaintiff-taxpayer shall be required to submit, in support of his claim, an extract from the tax-roll or a certificate showing that he was not assessed with any tax, which [extract or certificate] shall be issued by the collector in the place where the taxpayer is domiciled.

ART. 144. Taxpayers shall have no right to request extracts from the tax-rolls of the taxes provided for above in titles I to IV and VI, except insofar as such extract pertains to their own assessment.

ART. 145. Every notice or communication concerning the general-income tax exchanged between the agents of the tax administration or addressed by them to taxpayers shall be sent in a sealed envelope.

An administrative order shall determine the postal exemptions or the special postal rates which are deemed necessary [for these communications].

These provisions shall apply to the scheduled taxes provided for above in titles I to IV.

#### SECTION VI. PENALTIES (PEINES CORRECTIONNELLES)

ART. 146. Whoever shall fraudulently conceal or attempt to conceal, in order to avoid the assessment of the taxes provided for above in titles I to IV and VI, any sums subject to such taxes shall be punishable with a fine of from 1,000 to 5,000 francs, provided that the concealed part is at least 10 percent [of the whole taxable sum]; this penalty shall be without prejudice to the fiscal sanctions provided for above in titles I to VI.

The court may in each case order that the judgment be published in newspapers in whole or in part and posted in places indicated by the court, all at the defendant's expense; however, the costs of publication and posting may not exceed 5,000 francs. The provisions of article 7, last six paragraphs, of the act of August 1, 1905, shall apply.

If the offense is repeated within 5 years, the taxpayer shall be punished with a fine of from 1,000 to 100,000 francs and with imprisonment of from 1 to 6 months; he also may be deprived wholly or in part for not less than 5 and not more than 10 years of his civil rights enumerated in article 42 of the Criminal Code.<sup>22</sup> The posting and

<sup>22</sup> Art. 42 of the Criminal Code provides that persons found guilty of a crime or a misdemeanor may be enjoined from the exercise of their civil rights, i. e., franchise; eligibility to office or to other public functions; serving as a juror, expert, or witness in legal proceedings.

shall be at the disposal of the fiscal administration for a fortnight from the date of filing.

The arbitral award shall not be subject to the requirement of filing except in case its enforcement is ordered, or if it is used in a legal proceeding.

#### SECTION VIII. THE RIGHT OF DISCOVERY AGAINST PRIVATE ENTERPRISES

ART. 154. In order to allow the verification of tax returns filed by the parties concerned themselves and by third persons, all bankers, administrators of property, and other business men engaged professionally in paying proceeds from securities or investments or whose profession includes incidental payments of this character, and all other business men who are not subject to the system of assessment on the basis of estimated profits provided for above in article 13 shall open their books which they are required to keep by virtue of title II of the Code of Commerce and all other accessory books, records, and evidences of receipts and expenses whenever requested by agents of the administration of direct taxes having the rank at least of an assessor.

In the case of companies, the right of discovery provided for in the preceding paragraph shall extend to the transfer register of stocks and bonds, and to the attendance lists of shareholders' general meetings.

ART. 155. Institutions and organizations which are exempt from the scheduled taxes shall be required to open their account books and accessory documents whenever requested by agents of the administration of direct taxes having the rank at least of assessor, together with all evidence tending to show that they function in compliance with the legal rules governing them.

ART. 156. The refusal to open books, records, and documents indicated in articles 154 and 155, or their destruction before the expiration of 10 years shall be recorded in an official report, and shall be punishable with a fine of from 1,000 to 10,000 francs as a principal penalty.

Independently of this fine, the infringers shall be ordered to produce their books, records, or documents which they failed to submit, under a fine of 100 francs at least for each day's delay. This daily fine (*astreinte*) shall begin from the date on which the official statement, recording the refusal to execute the properly served judgment, was signed by the parties or notice was given; it shall cease to be due only on the day when an agent of the administration of direct taxes records in one of the principal books of the establishment or the company that the administration has obtained from the former the records, the discovery of which was ordered.

The fine and the daily fine for delay shall be imposed by the departmental administrative court, which decides the matter as in the case of minor offenses, upon a petition submitted, free of charge, by the director of direct taxes.

A copy of the petition shall be communicated to the infringer by the departmental administrative court.

The fine and the daily fine shall be collected by the collector of direct taxes.

## TITLE VIII. TAX ON INCOME FROM BUILDINGS (CONTRIBUTION FONCIÈRE DES PROPRIÉTÉS BÂTIES)

### SECTION I. TAXABLE PROPERTY

ART. 157. A yearly tax shall be levied on buildings (*propriétés bâties*)—such as dwelling houses, factories, ironworks, mills, and other constructions—excepting such buildings as are expressly exempted by virtue of the provisions of this code.

ART. 158. The following shall also be subject to the tax on income from buildings:

1. Uncultivated land and sites used for commercial or industrial purposes, e. g., for working yards, or for storing of merchandise, irrespective of whether they are used by the owner himself or he permits others to use them with or without consideration;

2. The machinery of industrial enterprises permanently affixed in the factory as set forth in the provisions of article 525 of the Civil Code<sup>26</sup> or placed on a special foundation forming an integral part of the immovables, as well as all commercial or industrial equipment comparable to a structure;

3. Floating baths and mills, ferry boats, floating laundries, and constructions of a similar nature even when they are not built on pillars or piles, but are merely held on moorings;

4. Lands, whether or not cultivated, when used for commercial or industrial advertising by means of advertising boards or placard screens, put up beyond a radius of 100 meters from a group of dwelling houses or buildings.

### SECTION II. PERMANENT EXEMPTIONS

ART. 159. The following shall be exempt from the tax on income from buildings:

1. Buildings owned by the national, departmental, or municipal governments assigned for public service or for general use and not productive of income, such as: national palaces, castles, and buildings, houses of the Senate and of the Chamber of Deputies; the Panthéon, the Hotel des Invalides,<sup>27</sup> the Military School, the Military Academy of Artillery and Engineering (*l'école polytechnique*), the Bibliothèque nationale;

Buildings used for the Government departments, their administration, and offices;

Buildings occupied by courts of law;

Lycées,<sup>28</sup> *prytanées*,<sup>29</sup> schools and institutions maintained by the Government, public libraries, and museums;

Buildings used for the headquarters of the prefectures and under-prefectures, town halls, and municipal schools;

Charitable institutions, workhouses, prisons, houses of detention;

Arsenals, armories, barracks, and other military buildings;

Munition factories, tobacco factories, and other industrial plants working for the Government;

Horse-breeding establishments;

<sup>26</sup> Art. 525 of the Civil Code provides that movables shall be deemed as being permanently affixed when such movables are fastened to the ground by plaster or cement, or when they cannot be removed without injury to the movables themselves or to the foundation to which they are affixed.

<sup>27</sup> The Army Pensioners' Hospital in Paris.

<sup>28</sup> State supported high schools.

<sup>29</sup> Military schools for the sons of soldiers.



2. Equipments in maritime ports and on navigable waterways which are licensed by the State to chambers of commerce or to municipalities and which are operated in compliance with the conditions of the license;

3. Waterworks and power plants belonging to rural communities or to their associations;

4. Buildings used for worship which belong to the State, departments, or municipalities or assigned, by virtue of article 4 of the act of December 9, 1905, to associations and unions indicated in title IV of that act;

5. Buildings belonging to associations of disabled veterans or of disabled workmen from industries which are [officially] recognized to serve the public interest when such buildings are used as hospitals for the members of such associations;

6. Buildings used for farming purposes such as barns, stables, granaries, cellars, storerooms, wine presses, etc., which are destined for stabling cattle and for accommodating their caretaker, or for storing crops; subject to the same conditions also are buildings used for farming purposes by societies enumerated in article 22 of the act of August 5, 1920, concerning mutual credit and agricultural cooperatives, and the federations of farmers' and of consumers' cooperatives established in accordance with article 1 of the act of August 26, 1936;

7. Shelters against aerial bombardments erected in compliance with the laws and regulations relating to passive defense which satisfy the conditions determined by an ordinance counter-signed by the Minister of Finance and the Minister in charge of passive defense;

8. Boat-houses belonging to associations of lifesavers and serving for sheltering their lifeboats.

### SECTION III. TEMPORARY EXEMPTIONS

#### *A. General and permanent provisions*

ART. 160. New or remodelled buildings and additions to buildings shall not be subject to the tax on income from buildings until the third year following their completion.

The conversion of a rural building into a dwelling house or a plant and the appropriation of land for commercial or industrial purposes shall be regarded as new buildings.

The temporary exemption provided for in the first paragraph of this article shall not apply to lands used for commercial or industrial advertisement referred to in article 158, No. 4; such lands shall be taxable from January 1 of the year following their appropriation for such purpose.

ART. 161. 1. In order to benefit by the temporary exemption provided for in the preceding article, the owner shall file, with the mayor's office of the municipality where the building is to be erected and within 4 months from starting construction, a declaration setting forth the nature and destination of the building and the description of the land, according to the land register, on which it is to be erected.

In cases where a preliminary permit is required for the erection of a building, the request for such a permit, duly presented, shall be accepted in lieu of the special declaration provided for above.

2. New or remodelled buildings and additions to buildings with respect to which no declarations have been filed at all or declarations have been filed after the expiration of the time limit provided for in the first paragraph of this article shall be subject to the tax on income from buildings from January 1 of the year following their completion.

The taxes assessed on such buildings shall be entered into special rolls until the assessments are included in the general tax roll.

The assessment shall be equal to that imposed in the year in question on buildings of the same character; however, such assessment shall be multiplied by the number of years elapsed since the completion of the new or remodelled buildings or additions to buildings until and inclusive of the year in which their existence became known; nevertheless, the assessment may not be multiplied more than five times.

*B. Low-cost housing (habitations à bon marché)*

ART. 162. Individual or collective dwelling houses intended for lease or sale or those built by the interested parties themselves shall be exempt from the tax on income from buildings for a period of 12 years following their completion, provided that they comply with the conditions set forth in articles 2 and 3 of the act of December 5, 1922, concerning low-cost housing and small property, modified by article 94 of the act of December 31, 1936.

This exemption shall apply only to the parts of the building actually used for low-cost housing.

ART. 163. In order to benefit by this temporary exemption, the owner shall produce in the form and within the time limit provided for above in the first paragraph of article 161 a petition which shall be heard and determined as a claim for a rebate or a reduction of direct taxes. This petition may be included in the declaration required by the said article from owners who intend to erect a building subject to the tax on income from buildings.

The certificates provided for in the legislation concerning low-cost housing and issued by the assessors of direct taxes shall be accepted in lieu of the declaration provided for above.

ART. 164. The temporary exemption provided for in article 162 ceases to apply:

1. If, in consequence of transformation or enlargement, the building loses its character as a low-cost dwelling house and acquires a value materially higher than the statutory maximum;

2. If the rents exceed the maxima provided for in article 94 of the act of December 31, 1936;

3. If the certificate of sanitation is withdrawn or the owner refuses to submit to the annual inspection by the patronage committee concerning the maintenance of adequate sanitary conditions.

ART. 165. Artisans' cooperative societies and their members engaged in activities described in article 1 of the act of August 2, 1932, concerning the erection of buildings for the use of handicraft industries shall be entitled to benefit by the temporary exemption provided for in the preceding articles for low-cost housing societies and for people of small means who are beneficiaries of legislation concerning low-cost housing.

*c. Special Temporary Provisions*

ART. 166. 1. In the case of new and remodeled buildings and additions thereto which have not been completed by March 31, 1922, or in the case of such buildings where construction began subsequent to that date but was completed by January 1, 1935, the temporary exemption from the tax, provided for by article 160 of this code, shall extend for 15 years beginning from the year following the completion of construction. \* \* \*

2. As a temporary measure, exemption from the tax on income from buildings provided for in the preceding paragraph shall be maintained:

a. For a period of 15 years in the case of new and remodeled buildings completed in 1935;

b. For a period of 10 years in the case of such buildings completed before January 1, 1941;

c. For a period of 5 years in the case of such buildings completed in 1941.

ART. 167. The following shall not enjoy the exemption provided for in the preceding article:

1. Buildings or parts thereof which are not used for dwellings;

2. Dwelling houses used for pleasure, amusement, or holiday;

3. Buildings or parts thereof which are found unsanitary or which have been erected in violation of laws or regulations relating to any of the following subjects: protection of public health, easements non aedificandi, administration of highways, city planning and development;

4. Buildings or parts thereof erected in the devastated regions by persons or their lawful successors for which a compensation was received in accordance with article 4, paragraph 1, of the act of April 17, 1919, concerning war damages;

5. Buildings or parts thereof erected by victims or their lawful successors in the southwest area, for which a compensation was received in accordance with the acts of April 8 and 16, 1930, concerning damages caused by the exceptional storms and floods of March 1 to 10, 1930.

ART. 168. Buildings or parts thereof which enjoy the tax exemption provided for above in article 166 and which are subsequently let furnished or are used for any other purpose than dwelling shall cease to enjoy these immunities the year immediately following their transformation; however, they may not be subject to the tax on income from buildings prior to the expiration of the time limit [of 2 years] provided for above in article 160.

ART. 169. The declarations of new buildings filed with the mayor's office after the expiration of the time limit provided for in article 161 shall entitle the owner to the tax exemption provided for above in article 166, for that part of the exempt period which remains on January 1 following the year in which such declarations were filed.

ART. 170. Buildings erected on land, the development of which has not been authorized and excluded, for that reason, from the tax exemption provided for above in article 166 shall be entitled to enjoy this exemption for that part of the exempt period which remains from the year in which the land development was duly authorized.



ART. 170b. The exemption provided for above in article 166, section 1, shall apply to low-cost dwelling houses erected by virtue of the act of July 13, 1928, which shall have been completed before January 1, 1938.

#### SECTION IV. THE BASIS OF ASSESSMENT

##### *A. Taxable net income*

ART. 171. The tax on income from buildings shall be levied on the rental value of the property, after deducting therefrom for depreciation and for costs of upkeep and maintenance 25 percent in the case of dwelling houses and 40 percent in the case of factories. However, in the case of buildings with respect to which the real rental value was substituted for the cadastral rental value, the deduction shall be 40 percent of the real rental value in the case of dwelling houses and 50 percent in the case of factories.

By way of exception, the deduction made in the case of buildings which were subject to this tax prior to January 1, 1926, shall in no case be below the triple of the deduction estimated on the rental value previously attributed to such buildings in compliance with the first paragraph of this article.

ART. 172. The rental value of indispensable and immediate grounds and outbuildings shall be taken into account in estimating income from buildings for the purpose of assessing the tax.

ART. 173. The assessment of new and remodelled buildings and additions within the meaning of article 160 of this code shall be arbitrarily estimated on a basis of comparison with other buildings of the community where they are situated.

The valuation [of such buildings] shall be estimated by the assessor of direct taxes assisted by the mayor and by surveyors (*répartiteurs*).

##### *B. Revision of valuations*

ART. 174. The valuations on the basis of which the tax on income from buildings is assessed, shall be revised every 10 years by the commission of classifiers (art. 193).

ART. 175. In each department, the 20 groups of communities formed for the purpose of revising periodically the valuation of income from unbuilt lands (*revenu des propriétés non bâties*), in accordance with article 192 of this code, shall be reduced to 10 groups by combining 2 groups, respectively, together. Each year the decennial revision of income from buildings, provided for in the preceding article, shall be carried out in 1 of these 10 groups, and in the same year as the revision of income from lands.

ART. 176. A special act shall determine the date of carrying out these periodic revisions and the date at which their results become applicable.

ART. 177. 1. In the case of opening, revising, or renewing the land register in a community, a new valuation of income from buildings shall be made in accordance with the statutes in force.

2. If, due to exceptional circumstances, a general decline in the value of buildings occurs in the interval of two decennial revisions, in a community or in a considerable section thereof, the municipal council may request a new valuation of buildings in that community

subject to the condition that the costs of such valuation will be borne by the community.

3. The results of the new valuations thus carried out shall form the basis for the assessment of the tax on income from buildings for the years following the completion of valuations and until the results of the next regular periodic valuations shall become applicable.

ART. 178. Within a month following the entry of the assessments in the first tax roll prepared on the basis of the results of each revision, there shall be issued, upon request, to owners who are not domiciled in the municipality to which the tax roll applies a copy of the particulars of valuation placed on their properties.

The notices relating to these tax rolls shall contain the text of the preceding paragraph.

In case of industrial properties, the particulars of the valuation shall state two distinct figures: first, that of the building itself, and second, that part of the equipment which was assessed with the tax on income from buildings.

### *C. The fixity of valuations*

ART. 179. The owners of buildings may protest against the valuation placed on their buildings within 6 months from the entry of the assessments in the first tax roll and within 3 months from such entry in the subsequent tax roll.

As far as subsequent tax rolls are concerned, owners may protest within 3 months from the entry of assessments in each of these tax rolls, if, due to exceptional circumstances, the value of their buildings has declined.

ART. 180. Apart from the cases provided for in the preceding article, no petition for release from or reduction of the tax shall be admissible, except in the case where the building has, in whole or in part, been destroyed or converted into a farm building.

## SECTION V. TAXABLE PERSONS

ART. 181. Buildings shall be assessed in the name of the present owner except in the case provided for in article 225 of this code.

If a building is encumbered with a life interest (usufruit) or is leased for a long term (bail emphytéotique), the tax shall be assessed in the name of the life tenant or the lessee, in conformity with article 608 of the Civil Code <sup>30</sup> and article 8 of the act of June 25, 1902.

## SECTION VI. COMPUTATION OF THE TAX

ART. 182. For the computation of the tax on income from buildings, the general rate of the scheduled income taxes shall be applied to the net taxable income.

## SECTION VII. REMISSIONS AND REDUCTIONS ON ACCOUNT OF LOSSES OF INCOME

ART. 183. Owners of buildings may petition for remission or reduction of the tax in case of total or partial loss of their yearly income.

<sup>30</sup> Art. 608 of the Civil Code provides that the usufructuary or the tenant for life shall bear, during his tenancy, all the usual charges on the property, including taxes.

However, the vacancy of buildings or parts thereof shall not result in the remission or reduction of the tax unless such vacancy last at least 1 year.

## TITLE IX. TAX ON INCOME FROM UNBUILT LANDS (CONTRIBUTION FONCIÈRE DES PROPRIÉTÉS NON BÂTIES)

### SECTION I. TAXABLE PROPERTY

ART. 184. A yearly tax shall be levied on unbuilt lands of every nature, including lands occupied by railroads, quarries, mines, and peat bogs, ponds, salt mines, and salt pans, with the exception of lands expressly exempted by virtue of the provisions of this code.

### SECTION II. PERMANENT EXEMPTIONS

ART. 185. The following shall be exempt from the tax on income from unbuilt lands:

1. Streets and public squares used for fairs and markets, national and local highways and waterways;

2. The properties of the State, departments, or municipalities assigned for public service or for general use and not productive of income, such as:

Gardens belonging to public buildings and charitable institutions enumerated in article 159, paragraph 1, of this code;

The Botanical Garden of Paris and the botanical gardens of the departments, their nurseries, and nurseries maintained on behalf of the Government by the forestry and highway administration;

Cemeteries;

Fortifications and ramps belonging thereto;

3. The indispensable and immediate grounds and outbuildings belonging to buildings of every kind and the lands and sites devoted to commercial or industrial use as indicated in article 158, paragraph 1, of this code;

4. Gardens belonging to buildings owned by associations of disabled veterans or workmen and exempted from the tax on income from buildings by virtue of article 159, paragraph 5.

ART. 186. State forests shall be exempt from the land tax insofar as the income is collected for the benefit of the State.

When such lands become private property, the purchaser shall be assessed as from the date of change of ownership.

### SECTION III. TEMPORARY EXEMPTIONS

ART. 187. Lands sowed, planted, or replanted with trees shall be exempt from the land tax for 30 years following the sowing, planting, or replanting.

In order to enjoy this exemption, the owner shall file a petition in the year following the carrying out of the work and within the time limit provided for claims for tax reduction. If such petition is filed, within such time limit, during any of the first 5 years of this 30-year period, it may entitle the owner to the exemption for the part of such period beginning on January 1 of the year when the petition was filed.



## SECTION IV. THE BASIS OF ASSESSMENT

*A. Taxable income*

ART. 188. The tax on unbuilt lands shall be levied on the estimated income from such property, as shown by the schedules drawn up in compliance with the rules laid down by the Ministry's instruction of December 31, 1908, regarding the character of cultivation and land.

For the purpose of assessment the said income shall be reduced by one-fifth.

As the survey of changes in the character of cultivation and the drawing up of new classifications, as provided for in article 2 of the act of April 16, 1930, are progressively completed in each community, the results of these surveys shall be used temporarily for the assessment of the land tax by applying the schedules at present in force; if necessary, these schedules shall be adjusted beforehand to the new classification.

ART. 189. When property becomes subject to the tax on unbuilt lands the first time, or after having temporarily ceased to be subject thereto (specifically, when it no longer falls into the category of lands described in arts. 158, par. 1, and 185, par. 3, of the code), its valuation shall be estimated by the commission of surveyors according to the schedule drawn up for properties of a similar nature situated in the community; if no such schedule exists, according to a schedule drawn up by comparison with those applied to other properties.

ART. 190. Until the results of the exceptional revision of valuations carried out under article 2 of the act of April 16, 1930, shall have become applicable, the taxable income determined in accordance with the two preceding articles shall be uniformly increased by 50 percent.

*B. Revision of valuations*

ART. 191. The valuations serving as the basis of the tax on unbuilt land shall be revised every 20 years in each community.

ART. 192. To this end, the communities of each department shall be divided into 20 groups and the valuations shall be revised in 1 of these 20 groups each year in turn.

The organization of the communities into 20 groups shall be carried out by the prefect, upon the advice of the director of direct taxes and of the land register; in the case of disagreement between the prefect and the director, the matter shall be decided by the Minister of Finance.

The order in which the revision of valuations in the 20 groups takes place shall be determined by the general council (*conseil général*). If the general council does not decide the question, the order shall be determined by the prefect under the conditions laid down in the preceding paragraph.

If a new community is established, the prefect shall determine the group to which such new community shall belong with a view to subsequent revision.

The organization of communities into 20 groups and the order of rotation in the groups may be modified in each department by the prefect upon the advice of the director of direct taxes or by the general council.

ART. 193. When valuations are revised, the schedule of valuations and the classification of lands regarding the nature of cultivation shall be determined in each community by a commission composed of the assessor of direct taxes or his representative, the mayor, six [lay] classifiers and six substitutes to be chosen by the chamber of agriculture from a list of twenty names proposed by the municipal council; one-half of these shall be farm-owners, the other half, persons subject to the tax on agricultural profits. Two of the [lay] classifiers—one of them owner, the other cultivator of land—shall be non-residents.

When the territory of a community comprises an aggregate of at least 100 hectares [1 hectare equals 2.47 acres] of timberland, the commission shall include at least one classifier who is the owner of forests; in the evaluation of forest lands, he shall be assisted by an agent of the forestry service, if the Administration of Woods and Forests so requests.

In default of a list of eligibles, the [lay] classifiers shall be nominated by the prefect ex officio within a month after a formal notice to present such list has been addressed to the municipal council.

In Paris, the members of the commission of direct taxes shall serve in lieu of classifiers.

Either at the request of the municipal council or without such request when the classifiers refuse to participate in the work, one or more assistants, appointed by the prefect and paid by the community, may be called upon to participate in the revision of valuations.

ART. 194. The schedule of valuations regarding the character of cultivation and land which cannot be determined by the administration of direct taxes in agreement with the classifiers shall be determined by a commission to be established in each department which shall be composed as follows:

The prefect;

The chief treasurer and paymaster [of the department];

The departmental director of agricultural services;

Two farm owners (one member and one substitute);

Two land cultivators subject to the tax on agricultural profits (one member and one substitute); these last four members shall be designated by the departmental chamber of agriculture.

An inspector of direct taxes and of the land-register shall discharge the functions of secretary.

ART. 195. The schedules determined either by the administration of direct taxes in agreement with the classifiers (art. 193) or by the departmental commission (art. 194) shall be communicated, through the director of direct taxes and of the land register, to the mayor, who shall, within 5 days, post such schedules at the town hall and shall address to the director a notice certifying that there has been compliance with this formality.

ART. 196. Within a month from the posting of the schedules, the mayor, duly authorized by the municipal council, and the director of direct taxes and of the land register, respectively, may appeal from the decisions of the commission provided for in the preceding article to a central commission which shall decide in last resort. This commission, to be established in the Ministry of Finance, shall be composed as follows:

The Minister of Finance or his representative;

A Senator and two deputies appointed by Executive order;  
The Director of the Public Audit Office;  
The Director General of Direct Taxes and of the Land Register;  
The Director of Direct Taxes and of the Land Register in charge of revision of forest valuations;

The Director of Agriculture;

Two farm owners (one member, and one substitute);

Two land cultivators subject to the tax on agricultural profits (one member and one substitute); these last four members and substitutes shall be designated by the Chamber of Agriculture of France.

A superior official of the general administration of direct taxes and of the land register, designated by the Minister of Finance, shall discharge the functions of secretary and shall have an advisory vote.

One or more officials of the general administration of direct taxes and of the land register may, moreover, be designated by the Minister of Finance to attend the meetings of the commission as assistant secretaries.

ART. 197. The interested owners shall also be permitted to contest, under the conditions and within the time-limit provided for in the preceding article, the schedules concerning the character of cultivation or land. However, such petitions shall be admissible only if the petitioner or petitioners own more than half of the land to which the contested schedule applies.

ART. 198. When protests by the mayors, the directors of direct taxes, or the interested owners are made against the schedules determined by the municipal or departmental commissions, and such protests are carried to the central commission for land valuation, the taxable income nevertheless shall be determined in accordance with these schedules and shall be entered in the tax rolls.

If the protests are decided in favor of the taxpayers, the reduction of tax shall be granted retroactively; in the contrary case, there shall be no additional assessment.

ART. 199. A special act shall determine the date of carrying out these periodic revisions and the date when their results become applicable.

ART. 200. 1. When a land register is opened, revised, or renewed in a community, the conclusion of the work shall be followed by a general valuation of unbuilt lands under the conditions provided for above in articles 193 to 198.

2. A revision of valuations in a community may be requested by the mayor, duly authorized by the municipal council, if subsequent to the last valuation there occurred, in consequence of exceptional circumstances, an important and general decline in the value of land either in the whole or in a considerable section of the community.

A request to this effect shall be submitted successively to the two commissions described in articles 194 and 196, and the Minister of Finance may, upon the favorable opinion of these commissions, order such revision, which shall be carried out in the same manner as the [regular] periodic revisions.

The costs of such revision shall be borne by the community.

If in the communities where the provisions of the present article have been applied it shall be found that a material increase in the value of property occurred subsequently, the Minister of Finance may order a new revision of valuation before the end of the [regular] 20-year period.



3. The valuations determined in the cases described in the present article shall serve as a basis of the tax only in the years following the completion of the revision.

These valuations shall in any event be revised at the expiration of the [regular] 20-year period, in accordance with article 191, as though there had been no special revision.

ART. 201. The provisions of the first two paragraphs of article 178 of this code, concerning notification to owners not domiciled in the community of the particulars of the valuations placed upon their properties, shall apply to the tax on income from unbuilt land.

#### *C. Temporary exceptions to the revision of valuations*

ART. 202. The [estimate of] taxable income of reclaimed marsh lands may not be increased [for the purpose of assessment] for 25 years following the reclamation of land.

ART. 203. The [estimate of] taxable income of waste lands or lands which were lying fallow for 15 years and which have been planted with mulberries or other fruit trees may not be increased [for the purpose of assessment] for 20 years following the planting.

The [estimate of] taxable income of lands lying waste for 15 years on which cultivation other than that described in the preceding paragraph has begun may not be increased [for the purpose of assessment] for 10 years following their clearing.

ART. 204. The taxable income of land already in cultivation which is planted with mulberries and other fruit trees may only be estimated, in the 15 years following the planting, at the rate of uncultivated land of equal value.

ART. 205. In order to benefit by these various advantages, the owner shall file a petition in the year following the carrying out of the work and within 3 months from the entry of the assessment in the tax roll. Such petition shall be filed, heard, and decided as a claim for rebates or reductions.

#### *D. The fixity of valuations*

ART. 206. Every owner may contest the nature of cultivation and the classification attributed to his unbuilt properties within 6 months from the entry of the assessment in the first tax roll prepared on the basis of the results of a new valuation, or within 3 months from such entry in the subsequent tax roll.

ART. 207. All protests filed under the preceding provisions, even if they relate to only one or more parcels assessed in one clause of the tax roll, may give rise to a rectification regarding the nature of the cultivation or the classification inaccurately attributed to other parcels comprised in the same clause, without, however, giving rise to an increase of the assessment entered in such clause.

To this end, motions, accompanied by the opinion of the commission of classifiers provided for in article 193, shall be submitted by the tax administration to the court in which the litigation started, and the court shall render a decision concerning such motions at the same time as the decision on the pleas of the petitioner.

ART. 208. The right of the owners to protest shall be exercised under the conditions and within the time limit provided for above in articles 206 and 207, following each of the revisions carried out in

accordance with the provisions of articles 191 and 200 of this code. The same rule shall be followed when property has been valued under article 189; however, in such case, the provisions of article 207 shall not apply.

ART. 209. Owners may request that the classification of their properties be changed when such properties have suffered a material and lasting depreciation in value in consequence of unforeseen circumstances which are independent of the will of the parties concerned and which affect the soil itself. Petitions to this effect may be filed within 6 months from the entry of the assessments in the tax roll for the year following that in which the events justifying the claims occurred.

ART. 210. Except in the cases provided for above in articles 206 to 209 and except in cases in which a temporary tax exemption is warranted under legislation in force, no request for remission or reduction of the tax on income from unbuilt land shall be allowed, unless a property ceases to be taxable or becomes one which falls into the category of properties described in article 185, paragraph 3, of this code.

ART. 211. 1. Notwithstanding the preceding article, in communities where the valuations of unbuilt land are revised (in compliance with articles 85-90, 92, and 94 of the codification of legislative and administrative measures relating to the reorganization of the wine industry, appended to the decree of December 1, 1936), owners who have substituted [some other cultivation] for the wine culture which was to be discontinued within 3 years may request that the nature of cultivation and the classification assigned to such parcels be rectified as from January 1 of the year following the discontinuance of the wine culture.

2. These provisions shall apply subject to the following conditions:

(a) That the newly planted parcels should have been classed as vineyards when the valuations were revised;

(b) That the wine culture was discontinued within the statutory 3-year limit and there was compliance with the conditions set forth in articles 85-90, 92, and 94 of the codification referred to above in section 1, concerning replanting.

3. Petitions for abatement of the tax provided for in section 1 of the present article shall be filed, heard, and decided as claims for reduction of land taxes.

They shall be filed in the year following either the discontinuance of the wine culture or the classification of newly planted parcels as vineyards and within the time limit prescribed for claims following the entry of assessments in the tax roll of that year.

\* \* \*

ART. 212. The owners of parcels planted in vineyards and classified as such, who have discontinued wine culture in compliance with articles 97, 102, 103, 104, and 122 of the ordinance of December 1, 1936, codifying legislation concerning the reorganization of the wine industry, may obtain, as from January 1 of the year following the discontinuance, a rectification of the nature of cultivation and of the classification of such parcels, provided that they file a petition to this effect in the said year, and within 3 months from the entry of the assessments in the tax roll.

Petitions to this effect shall be filed, heard, and decided as claims in matters relating to land taxes.

## SECTION V. TAXABLE PERSONS—SURRENDER OF PROPERTY TO THE COMMUNITY

ART. 213. The provisions of article 181 of the present code shall apply to the tax on income from unbuilt lands.

ART. 214. Private owners may not be relieved from the tax to which waste lands, barren lands and heaths, and lands regularly under water or devastated by floods are subject except by surrendering the ownership of such properties to the communities where such lands are situated.

The detailed declaration of such surrender, which must be in perpetuity, shall be made in writing by the owner or by his specially authorized agent and addressed to the secretariat of the municipal administration.

Assessments on lands thus surrendered, entered in the rolls previous to the surrender, shall remain a liability of the former owner.

ART. 215. The land tax on marshes and waste lands, which are not owned privately or which have been duly surrendered, shall be borne by the communities.

The same rule shall apply to parish lands insofar as they are not divided.

The tax due on lands which are shared by a part only of the inhabitants of a community shall be paid by these inhabitants.

## SECTION VI. COMPUTATION OF THE TAX

ART. 216. In the computation of the tax on income from unbuilt lands, the general rate provided for the scheduled taxes shall be applied to the net taxable income.

ART. 217. However, lands cultivated by their owners shall be assessed on a rate equal to one-half of the general rate whenever the cadastral revenue<sup>31</sup> of the aggregate of unbuilt lands owned by the taxpayer does not exceed 500 francs.

In order to benefit by the tax reduction provided for in the preceding paragraph, taxpayers shall file in the mayor's office in the community where they are actually domiciled a written declaration, describing, in accordance with the land register, all unbuilt lands owned by them and such part of these lands as are cultivated by themselves.

These declarations shall be filed before May 1 each year for the year following.

The declarations shall be verified by the assessor of direct taxes, who shall be assisted by the commission of surveyors, and the tax reductions shall be entered in the rolls of the land tax.

Owners whose declarations are in whole or in part dismissed and those whose situation has changed between the expiration of the time limit for the declaration and the end of the year shall have the right to file a claim, in the prescribed form and within the time limit provided for, following the entry of the assessments in the tax rolls.

\* \* \*

<sup>31</sup> As to the meaning of "cadastral revenues" see *supra* note 8.



## SECTION VIII. REMISSIONS AND REDUCTIONS ON ACCOUNT OF LOSSES OF INCOME

ART. 218. Owners may petition for remission of the tax in case their income from unbuilt property disappears in consequence of an extraordinary event.

ART. 219. Owners who have lost the whole or a part of their income from unbuilt lands as a consequence of hail, frost, floods, or other inclemencies of weather may petition for remission or reduction of their assessments for the year in which they suffered the loss.

The assessor shall visit the place, verify the facts in the presence of the mayor, and shall ascertain to what extent the petitioner has suffered losses from land and chattels. The assessor shall then prepare an official report.

ART. 220. If a community has suffered losses of income in consequence of extraordinary events, it also may petition for remission or reduction of the tax.

The vice prefect shall appoint two commissioners, who shall ascertain, in the presence of the mayor and in cooperation with the assessor, the facts and the extent of losses. The assessor shall draw up an official report on the findings.

ART. 221. No reduction of tax on account of losses of harvest suffered from hail shall be allowed after December 31, 1939, to farmers who are not insured.

## TITLE X. COMMON PROVISIONS APPLICABLE TO THE TAXES ON BUILDINGS AND UNBUILT LANDS

## SECTION I. PLACE OF ASSESSMENT

ART. 222. Real property, whether buildings or lands, shall be assessed in the community where it is situated.

## SECTION II. CHANGES IN THE LAND REGISTER AND IN THE ASSESSMENTS

ART. 223. 1. Changes in the land register consequent upon the transfer of ownership shall be effected at the suit of the interested owners.

2. With a view to the establishment of changes in the land register and their due entry into the land-tax rolls, public notaries shall be required to file with the office of registry taxes, when they submit documents for formal recording, an extract of such of these documents as in any way relates to the conveyance or assignment of real property.

The clerks of courts shall be subject to the same duty with respect to court documents of the character described in the preceding paragraph.

The extracts shall be written on forms supplied free of charge by the tax administration.

ART. 224. As the survey of changes in the character of cultivation and the drawing up of new classifications, as provided for in article 2 of the act of April 16, 1930, are progressively completed in each community, the designation of real property in accordance with the particulars of the land register shall be compulsory in all documents, whether or not sealed, and in all judgments transferring or establishing real property rights therein.

The omission or inaccuracy of such designation shall be punished with a fine of 25 francs imposed on the official or court clerk with respect to every sealed document or court record, and on the interested parties for each unsealed document.

This fine shall be collected in the same way as are recording fees.

If the real property cannot be identified [by reference to the land register], it shall be sufficient to describe, in the document conveying or establishing its ownership, its area, the nature of cultivation, its location, and the adjoining properties.

ART. 225. As long as the change [in the land register] has not been effected, the former owner shall continue to be assessed with the tax and he and his lawful successors may be required to pay, and may be sued for the payment of the land taxes, without prejudice to their right of recourse against the new owner.

ART. 226. When real property is assessed in the name of a taxpayer other than the person who was owner on January 1 of the year of assessment, the transfer of assessment may be effected upon the request of the owner or of the person in whose name the tax was improperly assessed.

Such requests shall be filed, heard, and decided as are petitions for the remittance or reduction of land taxes.

If there is any dispute concerning ownership, the parties shall be referred to district courts (*tribunaux civils*), and the decision concerning the transfer of assessment shall be deferred until final judgment has been rendered on the question of ownership.

ART. 227. In the case described in article 226, paragraph 1, the transfer of assessment also may be moved at any time by the assessor of direct taxes. The parties concerned shall be invited to take note of this motion at the office of the mayor where the real property is situated and to submit their observations to the mayor within 10 days. After expiration of this time limit, the mayor shall forward the documents, together with his opinion, to the director of direct taxes, who shall make a ruling. However, no ruling is required if there is no disagreement between the motions of the administration and the observations of the parties concerned.

Rulings made by the director in compliance with the preceding provisions may be appealed to the departmental administrative court within a month from their notification [to the parties concerned].

ART. 228. The rulings of directors of direct taxes and the decisions of the departmental administrative courts relating to transfer of assessments shall take effect in the year to which they refer and until the necessary rectifications have been made in the tax rolls.

### SECTION III. REDUCTION OF TAX ON ACCOUNT OF MORTGAGE DEBTS

ART. 228b. The owner of real property which was mortgaged or pledged as security for a debt contracted with the view to the acquisition, building, repair, or improvement of such real property shall have the right to obtain, upon his request and by reason of the annual interest paid by him to the creditor, a reduction of the land tax assessed on such property in the year in which this interest was paid.

Such reduction shall apply to that part of the land tax which is levied on the amount equal to the interest paid. However, in the case of real property which is let or leased, the basis of reduction is limited

to the surplus of such interest over the amount arrived at by deducting the taxable income on which the land tax was assessed from the net income determined in accordance with article 111, paragraph 3.

Claims for reduction for interest paid in the preceding year shall be filed in the first 3 months of each year.

The claim shall be accompanied by the receipt and by the description of the real property pledged. It shall contain, if necessary, information required to determine, in accordance with article 111, paragraph 3, the taxable net income in the year involved and any other information useful in support of the claim for reduction.

Such claims shall be heard and decided according to the rules applicable to direct taxes. However, the opinion of the mayor shall not be required.

#### **TITLE XI. MORTMAIN TAX (TAXE DES BIENS DE MAINMORTE)**

ARTS. 229–233. This tax is levied on real property owned by juristic persons, such as departments, municipalities, public and private corporations and, in general, organizations which have an existence independent of changes that may take place in their membership. The tax is levied in lieu of fees payable ordinarily by natural persons in connection with the transfer of property, juristic persons not being subject to the duty of paying such fees. Certain juristic persons (i. e., simple and limited partnerships; corporations having as their exclusive purpose the purchase and sale of real estate; business organizations, irrespective of their form, engaged exclusively in the construction, sale, and lease of low-cost dwelling houses; and artisans' cooperative societies) are exempt from the mortmain tax. The tax is computed on 13 percent of the income estimated for the purpose of assessment of taxes on buildings and lands; in certain cases the rate of computation is reduced to 9 percent. The procedure prescribed for the assessment and collection of land taxes is applicable. [Ed.]

#### **TITLE XII. MINING ROYALTIES (REDEVANCE FIXE DES MINES)**

ARTS. 234–238. Omitted.<sup>32</sup>

#### **TITLE XIII. FEES (TAXES PERCUES EN REMBOURSEMENT DE FRAIS)**

ARTS. 239–242. Repealed.

### **BOOK II. DÉPARTEMENTAL AND MUNICIPAL TAXES (IMPOSITIONS DÉPARTEMENTALES ET COMMUNALES)**

ARTS. 243–350. Omitted.<sup>33</sup>

<sup>32</sup> Mining royalties, computed according to the area of exploitation and not on the basis of income, are levied on mining enterprises including oil and gas wells.

<sup>33</sup> In view of their local character, the text of these taxes collected for the benefit of municipalities and of larger political subdivisions has been omitted.



**BOOK III. VARIOUS PROVISIONS—TAX ROLLS—PROTESTS—  
COLLECTION OF TAXES****TITLE I. VARIOUS PROVISIONS****SECTION I. COMPOSITION OF THE COMMISSION OF ASSESSORS (COMMISSION  
DES RÉPARTITEURS)**

ART. 351. 1. There shall be in every community seven assessors, to wit: the mayor, the deputy mayor, and five competent citizens, of whom two at least shall, if possible, not be domiciled in that community.

2. The municipal council shall prepare a list of 20 persons; from this list the vice prefect shall appoint five [lay] assessors and five substitutes.

The list of [lay] assessors and substitute assessors shall continue in force for the term of office of the municipal council. The appointment of the [lay] assessors shall be made within 2 months from the general election of municipal councils.

In the case of death, resignation or removal of [lay] assessors, new appointments shall be made upon the advice of the municipal council; the term of office of [lay] assessors thus appointed shall run until the expiration of the term of assessor appointed following the general election of the municipal council.

3. The assessors shall consult together and shall take decision by a majority vote. No decision shall be valid unless five members at least were present. The meeting shall be called by the mayor, or by his deputy, or by the eldest of the [lay] assessors.

ART. 352. The commission of direct taxes, established in Paris by the act of 23 frimaire, year III, shall discharge in Paris the functions of the assessors.

This commission shall have seven members, appointed by the prefect of the Department of the Seine.

**SECTION II. DECLARATIONS BY THE OWNERS OR TENANTS OF THE  
BUILDINGS**

ART. 353. With a view to preparing the rolls of direct taxes, the owners, or in their place the tenants, of buildings which are intended in whole or in part for dwellings, and which are situated in the capital of departments or in cities with a population of at least 5,000, shall be required to file a declaration with the assessor of direct taxes in the place where the immovables are situated, between October 1 and 15 each year. This declaration shall indicate, as of the date of filing:

1. The name of each tenant, the description of the rented premises, the yearly rent, and the amount of expenses;

2. The name of each tenant who occupies dwellings free of charge and the description of the premises thus occupied;

3. The description of the premises occupied by the informant;

4. The description of vacant premises.

Every violation of the preceding provisions shall be punishable with a fine of 100 francs imposed for each omission or inaccuracy found in the required information.

The fine shall be imposed by the departmental administrative court, which decides the matter as in the case of minor offenses, upon a petition submitted, free of charge, by the director of direct taxes.

The statute of limitations shall not be effective until the end of the year following that in which the violation was committed.

The fine shall be collected by the collector of direct taxes.

## TITLE II. TAX ROLLS AND NOTICES

### SECTION I. PREPARATION OF TAX ROLLS AND NOTIFICATION OF COLLECTION

ART. 354. Direct taxes and taxes assimilated thereto shall be collected in pursuance of tax rolls which become enforceable by a decree [of confirmation] issued by the prefect.

He may delegate his powers to the director of direct taxes, so far as the rolls prepared by the latter are concerned; however, such delegation of power shall not affect the jurisdiction of courts.

ART. 355. The date at which the tax rolls become enforceable shall be determined by the prefect, or in case the power of confirmation has been delegated, by the director of direct taxes in agreement with the treasurer-paymaster of the department. This date shall be indicated on the roll and, also, on the notices sent to taxpayers.

### SECTION II. SUBSIDIARY TAX ROLLS

ART. 356. Every landowner or life tenant who has several farmer-tenants in the same community and who wishes to have such farmer-tenants pay on his account the land taxes assessed on such leased or rented property shall file with the collector a declaration indicating summarily the division of the taxable income between himself and his tenants.

This declaration shall be signed by the owner and by the tenants.

If the number of tenants is more than three, the declaration shall be transmitted to the director of direct taxes, who shall determine the division of the taxes and shall enter the sums to be paid by each tenant in a subsidiary roll.

\* \* \*

The costs of preparation, printing, and distribution of these notices shall be borne by the informants. Those costs, together with the cost of preparation and printing of the subsidiary rolls (also to be borne by the informants), shall be collected, as are direct taxes, on the basis of a statement rendered enforceable by the prefect.

The amount of these costs shall be determined by an ordinance to be issued upon the proposal of the Minister of Finance.

### SECTION III. NOTICES AND EXTRACTS FROM THE ROLLS

ART. 357. A notice shall be sent to every taxpayer entered in the rolls. Such notice shall indicate, in addition to the aggregate sum due on each assessment, the sums due to the State, department, and municipality, respectively. It shall, moreover, indicate the conditions of liability and the date of enforceability.

The cost of this notice, amounting to 0.20 franc, shall be borne by the taxpayer.

ART. 358. The collectors shall be required to deliver on unstamped paper, upon request, to every person entered in the rolls, an extract of the roll relating to his taxes or a certificate that he was not assessed, or, subject to the reservation contained in article 144 of this code, any other extract from the rolls or other negative certificate.

The collectors shall receive a fee of 50 centimes for each extract concerning the same taxpayer.

Extracts from the rolls and negative certificates shall be issued free of charge in the following matters: judicial assistance, marriage of destitutes, military allowances for family support, benefits to incurably infirm and aged people, assistance to large families and to women in childbirth, to parents of soldiers and sailors who died for France, and in the cases provided for in the Social Insurance Act.

### TITLE III. PROTESTS AND TAX REDUCTIONS

#### CHAPTER I. CONTENTIOUS JURISDICTION

##### SECTION I. DECLARATIONS TO THE MAYOR'S OFFICE

ART. 359. Every taxpayer who believes himself wrongly assessed or over-assessed in the rolls of direct or assimilated taxes, the assessment of which is entrusted to the assessors of direct taxes, may file a declaration to that effect in the mayor's office in the place of assessment, within a month from the decree rendering such rolls enforceable.

This declaration shall be entered, free of charge and without any formality, in a register kept at the mayor's office; it shall be signed by the claimant or his authorized agent.

Those declarations which are found on summary examination by the assessor himself, or in agreement with the mayor and the [lay] assessors as provided for in article 366 of this code, to be well-founded shall be entered in a special register. The director [of direct taxes] shall decide the reduction which he deems to be justified.

Taxpayers whose declarations have not been transferred by the assessor to the special register shall be notified accordingly, and they shall be entitled to file a formal petition for reduction within a month from the date of notice, without prejudice to the time limits provided for in articles 361 to 363 of this code.

Taxpayers whose declarations have not been retained by the director [of direct taxes] on the special register shall be entitled to bring the dispute before the departmental administrative court under the conditions provided for in article 368 of this code.

##### SECTION II. PROTESTS

ART. 360. Every taxpayer who believes himself wrongly assessed or over-assessed in the rolls of direct and assimilated taxes provided for in this code shall address his application for remittance or reduction of the tax to the directorate of direct taxes having jurisdiction in the place of assessment.

These applications may be written on unstamped paper.

A receipt therefor shall be given upon the taxpayer's request.



ART. 361. Applications shall be filed within 3 months from the first of the month following that in which the tax roll was decreed enforceable, without prejudice to time limits fixed for special cases.

ART. 362. In the case of undue assessment in consequence of wrong or double entry [in the tax rolls], the time limit for filing such applications shall be extended to the end of the third month after the taxpayers have received formal notice of the proceedings instituted against them by the collector to collect the tax unduly assessed.

ART. 363. If in consequence of mistakes in dispatch new notices have been sent by the director to taxpayers, they shall be entitled to file applications against the assessment therein contained within 3 months from receipt of the new notice, but without prejudice to the regular time limit.

ART. 364. Every application shall indicate, under penalty of non-admissibility, the tax which it concerns, and (unless the notice itself is produced) the number in the roll under which this tax is entered; it shall contain, in addition to a statement of its purpose, a summary of the arguments in support thereof.

A separate application shall be made in each community.

ART. 365. No one shall file or maintain an application on behalf of another person without power of attorney in due form. The power of attorney shall be executed on stamped paper, under penalty of invalidity, and shall be recorded unless the application concerns an assessment of less than 30 francs; it shall, under the same penalty, be produced together with the application when the latter is filed by an authorized agent.

ART. 366. In the case of taxes assessed by the administration of direct taxes, unless otherwise provided in the statutes relating to any one of these taxes, protests shall be referred to the assessor, who shall examine the facts and shall give an opinion after consultation with the [lay] assessors or the mayor.

The assessor shall consult the mayor only when the protests concern: the land tax, the mortmain tax, mining royalties, the taxes on the net income from buildings or unbuilt lands, the patent tax or the tax on professional premises.

Only the agents of the administration of direct taxes shall be called upon to give opinions on protests concerning the income taxes and taxes assimilated thereto provided for in titles I to VI of this code, excepting, however, cases where protests relating to the tax on industrial and commercial profits must be submitted to the departmental commission, and cases where mining engineers may be consulted by virtue of article 142 of this code.

After the agents entrusted with the assessment of taxes and, in proper cases, the mayor, the [lay] assessors or the surveyors have rendered their opinions, the director [of direct taxes] shall render a decision concerning protests within 6 months from the date of filing.

If the claim contained in the protest is not fully allowed, the director's decision shall state briefly the reasons upon which it is based; these reasons shall be included in the notice sent to the taxpayer.

### SECTION III. PROCEDURE BEFORE THE DEPARTMENTAL ADMINISTRATIVE COURT

ART. 368. In case the decision of the director does not give full satisfaction to the taxpayer, the latter shall have the right to bring

the dispute before the departmental administrative court within a month from the receipt by him of notice of such decision.

The provisions of the act of July 22, 1889, modified by the ordinances of September 6 and 26, 1926, shall apply to such litigation, subject to the reservations contained in articles 11 and 51, section 3, of the said act and those indicated in the following articles of this code.

ART. 369. The taxpayer shall file in the record office of the departmental administrative court, within the time limit foreseen in the preceding article, an application accompanied by the notice of the director's decision; he shall be given a receipt therefor.

The application shall be written on stamped paper unless it concerns the [local] road taxes (*taxe des prestations*).

Noncompliance with the formalities required by article 364, paragraph 1, of this code which caused the dismissal of a protest by the director [of direct taxes] may be cured in the application to the departmental administrative court.

ART. 370. After having been recorded in the record office, the applications shall be transmitted to the director for his opinion. The director shall return them to the departmental administrative court together with the file relating to the original protest after having made an investigation in compliance with the rules prescribed by article 366 of this code.

If the director is of the opinion that the application should be allowed, he shall make a report and the departmental administrative court shall give the decision.

In the contrary case, the director shall write a reasoned opinion, and shall transmit the file to the record office of the administrative court; he shall, moreover, invite the applicant to examine the file and to make it known within 10 days whether he desires to submit additional observations or to resort to examination by experts.

ART. 371. In the case of direct taxes, and in the case of taxes assimilated thereto for the purpose of collection, whose assessment is entrusted to the administration of direct taxes, every expert report, whether requested by a taxpayer in the course of protest or ordered *ex officio* by the departmental administrative court, shall be made by three experts unless the parties agree that there shall be only one.

In this latter case, the expert shall be appointed by the administrative court. If the report is entrusted to three experts, one of them shall be appointed by the court and each of the parties shall be required to name his own expert.

ART. 372. The agent of the tax administration in charge of the expert inquiry shall fix the date and hour at which the proceedings begin, and notice thereof shall be sent at least 10 days in advance to the experts and the applicant. With the exception of cases involving income taxes, the agent of the tax administration shall also give notice, within the same time limit, of the date and hour of the expert inquiry to the mayor, and, if the protest was submitted to the [lay] assessors, he shall invite them to designate two to take part in the proceedings.

ART. 373. The experts shall proceed to the place with the agent of the tax administration and shall examine the facts, valuations, or income involved in the dispute in the presence of the applicant or his authorized agent and, in proper cases, of the mayor and of the two [lay] assessors.

The inspector shall draw up an official statement which shall record the observations of the applicant and, if there be such, those of the mayor or of the [lay] assessors, and the inspector's opinion. The director of [direct taxes] shall make a report, and the matter shall be decided by the departmental administrative court.

ART. 376. The costs of expert inquiry shall be borne by the party losing the litigation. They may be divided, in whole or in part, by reason of the circumstances of the case.

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ART. 377. If in consequence of a protest which has been held well-founded taxes or fees unduly collected have to be repaid, the Treasury, department, municipality, or public establishment for whose benefit they were collected shall reimburse the applicant for the principal, as well as for the amount of stamp duties to which the application was subject.

In case of applications for the remittance or reduction of direct and assimilated taxes, the amount of the stamp duty shall, unless exemption from such duty is provided for in this code, be included in the costs of litigation, and articles 62 and 65 of the act of July 22, 1889, shall be applicable.

The amount of the stamp duty and the recording fee on the power of attorney, as well as the amount of the stamp duty on the application, shall be included in the costs of litigation; they shall be charged to, or divided between, the parties as hereinbefore provided.

## CHAPTER II. NONCONTENTIOUS JURISDICTION (JURISDICTION GRACIEUSE)

ART. 378. Petitions for the equitable remission of direct taxes (*demandes en remise gracieuse*) shall be addressed to the directorate of direct taxes which has jurisdiction over the place of assessment.

Decisions on such petitions shall be made by the prefect upon the advice of the departmental director of direct taxes.

However, if the amount of the suggested remission of any one item exceeds 10,000 francs, decision shall be reserved for the Minister, who shall be advised by the Committee of Remissions and Settlements.

## CHAPTER III. NOTICES TO TAXPAYERS

ART. 379. Except summons to hearings of the departmental administrative court, notices to taxpayers relating to their petitions for tax reduction and to the decisions rendered in such matters shall be sent to them by the administration of direct taxes as provided for in article 145 of this code.

## CHAPTER IV. TAX REDUCTIONS EX-OFFICIO

ART. 380. Directors of direct taxes shall have the right to enter at any time in the special lists of reductions parts of the tax which have been found to be an overassessment. The reduction shall be granted by the directors whenever the mayor or the [lay] assessors consulted, as provided for in article 366 of this code, have expressed an opinion in favor of such reductions; in the contrary case, the matter shall be decided by the departmental administrative court.

ART. 381. Within 3 months from the date at which the tax rolls became enforceable, the collectors of direct taxes shall prepare in



proper cases lists for each community within their respective jurisdictions, showing for each tax the amounts which appear to them as having been unduly assessed; the lists shall be sent through the district collectors to the director of direct taxes.

Taxes which have been improperly assessed and not included in the lists above referred to but the unrecoverability of which has been duly established may be entered in the list of unrecoverable taxes prepared at the end of the year and may be allowed as tax reductions.

The lists above referred to shall be sent to the assessors of direct taxes; they shall examine the facts and the reasons brought forward by the collectors and shall give an opinion after having sought, if need be, the opinion of the mayor or of the [lay] assessors as provided for in article 366 of this code.

The provisions of articles 367 to 370 shall apply to the decisions relating to the lists of unduly assessed taxes and to the allowance of such assessments as tax reduction provided for in the second paragraph of this article.

## CHAPTER V. DISPUTES CONCERNING LOCAL TAXES

ART. 382. Omitted.

## TITLE IV. COLLECTION

### CHAPTER I. DATES AT WHICH TAXES ARE DUE (EXIGIBILITÉ DE L'IMPÔT)

ART. 383. 1. Taxes, duties, and fees which are collected by the administration of direct taxes shall be due in two equal installments, the first on April 20, the second on October 31 of the year in which the tax is due.

The first installment of taxes included in rolls which are rendered enforceable between May 1 and July 31 shall be due as from the date of enforceability.

The tax shall be due in full immediately upon enforceability of the rolls: if the first installment has not been paid by July 31; if the taxpayer moves out of the jurisdiction of the revenue office and does not submit proofs in justification of his new domicile; and in case of voluntary or forced sale [of the taxpayer's establishment]. The whole tax shall also be due immediately in case of surtaxes imposed as penalties for failure to file a return or for filing a late or insufficient return of taxable income.

2. Taxes included in rolls which are rendered enforceable after July 31 shall be due in two equal installments, the first on the 1st of the month following that in which the rolls became enforceable, the second on October 31 of the year in which the tax is due.

Failure to pay the first installment by the date specified shall entail the immediate payment of the tax in full.

3. Taxes included in rolls which are rendered enforceable after September 30 shall be due in full the month following that in which the rolls become enforceable.

4. In case of transfer or discontinuance of an enterprise, the tax on industrial and commercial profits, the special turnover tax, and the apprenticeship tax assessed in conformity with articles 26, 31, and 43 of this code shall be due immediately in full.

ART. 384. If no decision has been rendered concerning a protest within 6 months from its filing, the taxpayer shall be entitled to defer payment of installments falling due on the contested tax to the extent of the reduction claimed by him, provided that he has indicated his intention to do so in his petition and that he stated therein the amount or the basis of the reduction which he claims.

ART. 385. A taxpayer who contests, by a protest filed in compliance with articles 360 and 368, the justice or the amount of the taxes for which he is assessed may defer the payment of the contested part of those taxes, provided that he has claimed the benefits of this article in his brief instituting the action and that he has therein stated the amount or the basis of the reduction claimed by him and, provided further, that he gave sufficient security for the [ultimate] payment of the tax.

In the absence of such security, the taxpayer who claimed the benefits of this article may not be proceeded against on account of the contested part of the tax until after a decision on his protest has been rendered by the director of direct taxes or the departmental administrative court.

## CHAPTER II. PAYMENT OF THE TAX

ART. 386. 1. The taxes provided for in the present code shall be payable in cash to the collector who is custodian of the tax roll or according to any other method of payment authorized by the Minister of Finance or by Executive ordinance.

2. \* \* \*

3. \* \* \*

4. Matured interest of Government bonds may be used for the payment of direct taxes.<sup>34</sup>

ART. 387. 1. For every payment of taxes, a receipt from the prescribed counterfoil book shall be given; moreover, the collectors shall enter in the rolls all payments.

2. Receipts for direct and assimilated taxes collected for the benefit of the State and for departmental and municipal taxes collected by virtue of the rolls prepared by the administration of direct taxes shall be exempt from the stamp duty.

3. Duplicate receipts shall be delivered free of charge by the collector to the taxpayer who makes a request therefor in order to prove the payment of his taxes.

ART. 388. 1. Provisional payment of taxes shall be credited to the taxpayer in an account opened in their name.

2. \* \* \*<sup>35</sup>

## CHAPTER III. LIABILITY OF THIRD PARTIES AND THE PREFERENCE OF THE TREASURY IN MATTERS RELATING TO DIRECT TAXES

ART. 389. The tax roll which was duly decreed enforceable may be enforced not only against the taxpayer whose name appears therein, but also against his heirs or lawful successors.

ART. 390. Every tenant farmer or lease holder shall be required to pay, on behalf of the owner, the land taxes due on the immovables

<sup>34</sup> Paragraphs 2 and 3 of this article, providing for the optional payment in kind of certain local taxes, are omitted.

<sup>35</sup> Paragraph 2 of this article, providing for the payment of the license tax (patente) by certain categories of taxpayers, is omitted.

which they rented, and the owners shall be obliged to accept the receipts for the payment of these taxes on account for the rent.

ART. 391. The transferee of a business concern may be held jointly liable with the transferor or his lawful successors for the taxes provided for in articles 26, 31, and 43, under the conditions set forth in those articles.

ART. 392. The wife controlling her own property and living with her husband shall be jointly liable for the payment of the general income tax assessed in the name of the husband.

However, her liability shall be limited, in accordance with article 141, to the proportion of her separate income to the aggregate income of the household during the year for which the tax was assessed, if she submits the special declaration provided for in that article.

ARTS. 393-395. Omitted.<sup>36</sup>

ART. 396. The part of the tax on industrial and commercial profits and of the tax on profits from noncommercial occupations which is entered in the rolls in the name of the active partners shall, nevertheless, remain a debt of the firm, in accordance with the provisions of articles 21 and 22 of this code.

ART. 397. Employers and payers of annuities shall be required to withhold, on behalf of the Treasury, the tax on salaries, allowances, remunerations, and wages paid for services rendered in France to persons domiciled abroad, and the tax on pensions and life annuities paid to such persons, in accordance with the provisions of articles 74 to 77 of this code.

ART. 398. Individuals, companies, and associations who pay any sums subject to the tax on profits from noncommercial occupation to persons or companies which do not possess a professional establishment in France shall be required to withhold, on behalf of the Treasury, the said tax, in accordance with the provisions of articles 95 to 99 of this code.

ART. 399. The Treasury shall have a preferential claim in all cases involving direct taxes within 2 years from the date of enforceability of the tax rolls as follows: (1) In the case of land taxes, to the harvest, products, rents, or yields of immovables subject to the tax; (2) in the case of all the other direct and assimilated taxes, to all movables and chattels of the taxpayer wherever they may be located.

In the case of mining royalties (*redevance fixe des mines*) the preferential claim shall be enforceable with respect to the products, rents, and yields of every nature of the mine, as well as with respect to all movables and chattels of the taxpayer.

This preferential claim may be enforced, in the absence of chattel mortgage, against all material used in the operation of a commercial establishment, even though such material should be deemed to be immovable by virtue of the first paragraph of article 524 of the civil code.

ART. 400. Bailiffs, appraisers, notaries, receivers, and other public trustees of sums of money may not hand over such money to the heirs, creditors, or other persons having the right to receive the sequestrated or deposited sum of money, except by proving that the direct taxes due from the persons on whose account such moneys accrued have been paid. Such receivers and public trustees shall, moreover, be authorized themselves to pay taxes which they find are

<sup>36</sup> Arts. 393 to 395 deal with third party liability for the payment of certain departmental taxes.



due, before handing over the sums of money entrusted to them, and the receipts for such taxes shall be accepted in their accountings.

ART. 401. Every farmer, tenant, receiver, agent, or any other bailee or debtor holding sums of money accrued to them for a taxpayer against which sums the Treasury has a preferential claim shall, upon due request, pay from the funds thus held, and up to the amount of such fund, all or part of any tax due from such taxpayer.

The receipts given by the collector's office for taxes lawfully due shall be accepted in their accountings.

ART. 402. The preferential claim with respect to direct taxes shall not prejudice any other right which the Treasury, like every other creditor, may exercise against the taxpayer's property.

ART. 403. The preceding provisions of articles 399, 401, and 402 shall apply to municipal taxes which are assimilated to direct taxes; however, the preferential claims for such taxes shall rank immediately following those of the Treasury.

ART. 403b. The preferential claim provided for in articles 399 and 403 shall be deemed to have been invoked against the chattels referred to and shall remain enforceable from the moment it was attached, irrespective of the date at which it is sold. The request referred to in article 401 shall have the same effect, including conditional credits and credits at call, held by the taxpayer against a third-party debtor, irrespective of the date at which such credits become due.

The assignment of public or private salaries, or wages of civil or military officials may not be used as demurrer against the preferential claims of the Treasury except to the extent of half of the amount [of such salaries] which may be attached or assigned.

#### CHAPTER IV. LEGAL PROCEEDINGS

ART. 404. Legal proceedings may be instituted against the taxpayer who has not paid the installment of his tax due at the dates determined by the law.

ART. 405. 1. Irrespective of the first notice provided for in article 357, the collector shall be required to send to the taxpayer a summons free of charge, 8 days before the issuance of a writ.

2. Administrative proceedings shall be instituted by summons served through the mail or through the prosecuting agent of the Treasury. This summons, for which costs shall be imposed, shall be served by virtue of a writ (*contrainte*) issued by the district collector of taxes (*receveur des finances*).

ART. 406. Legal proceedings shall be instituted through process-servers (*huissiers*) or through prosecuting agents of the Treasury serving as process-servers in the administration of direct taxes. They shall be instituted by virtue of a new writ issued by the district collector of taxes.

The writs shall, as far as formalities are concerned, be governed by the usual rules of law (*droit commun*).

Nevertheless, the summons may be served through the mails: these documents of the lawsuit shall therefore be exempt from the conditions set forth in the Code of Civil Procedure concerning the validity of writs.

ART. 407. If, in the case of distraint of movables and chattels for the payment of taxes, an action is contemplated for the recovery of

the distrained property, such action may not be brought before the district courts (*tribunaux civils*) until after it has been submitted to the prefect together with all the proofs in support thereof.

The prefect shall render a decision within a month from the filing of the complaint, the receipt of which shall be acknowledged. If no decision has been rendered [by the prefect] within a month, or if the administrative decision does not give him satisfaction, the claimant may lodge an appeal with the civil court.

ART. 408. A taxpayer who filed a protest and who, without having given security, has nevertheless duly claimed the benefits provided for in article 385 of this code may not be proceeded against with respect to the protested part of the tax by way of judicial sale until a decision [on his protest] has been rendered by the director of direct taxes or by the departmental administrative court.

ART. 409. The appraisal and the public sale of the chattels of taxpayers in arrears shall be made by the official appraisers (*commisaires-priseurs*) in the cities where they have their offices.

ART. 410. In the case of preferential claims for taxes, the attachment of moneys accrued on account of the [delinquent] taxpayer shall be effected by means of the request provided for in article 401; such request shall be made in the form of a notice or summons addressed to the third party holder [of the money].

ART. 411. The writs and other legal papers relating to orders to pay, to distraints and judicial sales, issued with a view to the collection of direct and assimilated taxes, shall be exempt from the payment of the stamp duty and recording fees.

ART. 412. The costs of legal proceedings to be borne by the taxpayers shall be computed on the amount of outstanding installments according to the following schedule:

Summons to taxpayers or to third party holders, 1 percent of the amount due;

Order to pay, 3 percent of the amount due;

Distrain order, whatever be the nature of distraint, 5 percent of the amount due;

Notification of sale,  $1\frac{1}{2}$  percent of the amount due;

Public notices,  $1\frac{1}{2}$  percent of the amount due;

Inventory before sale, 1 percent of the amount due;

Official report of sale, 1 percent of the amount due.

In case a distraint order is revoked by reason of immediate payment of the tax by the [delinquent] taxpayer, the cost of the distraint order shall be reduced to 1 percent of the amount due. The same rule shall apply in case the taxpayer makes payment within a day after the distraint.

Except in the case of a summons, there shall be a minimum cost of 2 francs.

Additional costs of legal proceedings shall be determined by an executive ordinance countersigned by the Minister of Finance.

ART. 413. The amount of costs to be borne by the delinquent taxpayers shall be determined by the prefect or by a vice prefect designated by him.

ART. 414. Every taxpayer who has not paid in full the direct and assimilated taxes which were assessed in his name and which became due under the conditions determined by law shall pay a surtax of 10 percent on the unpaid balance as from a date to be fixed each year by

an executive ordinance issued upon the motion of the Minister of Finance, without prejudice to the costs incurred by reason of legal proceedings.

ART. 415. The annulment or reduction of the protested assessment shall entail, as a matter of law, the total or proportional cancelation of the costs of the documents served on the complainant and of the 10 percent surtax imposed for late payment.

ART. 416. Collectors who took no proceedings against a delinquent taxpayer during 4 consecutive years from the date at which the tax roll became enforceable shall lose all right of action against that taxpayer.

ART. 417. Collectors shall be liable for the collections of direct taxes the rolls of which have been given in their charge, and they shall be required to prove the integral payment of these taxes in the manner prescribed by administrative regulation.

ART. 418. Any person who fraudulently evades or attempts fraudulently to evade total or partial payment of taxes levied by virtue of law for the benefit of the Treasury shall be punished by a fine of from 1,000 to 5,000 francs, without prejudice to the rights of the Treasury. In case the offence is repeated within 5 years, such person shall be punished by imprisonment of from 1 to 5 years and he may be deprived, wholly or in part, for not less than 5 and not more than 10 years, of his civil rights enumerated in article 42 of the Criminal Code.<sup>37</sup>

Moreover, the court may order that the judgment, in whole or in part, be published in newspapers and posted in places indicated by the court, all at the defendant's expense; however, the costs of publication and posting may not exceed 5,000 francs.

The provisions of article 7, last six paragraphs, of the act of August 1, 1905, shall apply.

Article 463 of the Criminal Code may be applied.<sup>38</sup>

Proceedings shall be instituted upon the complaint of the competent tax administration before the criminal court which has jurisdiction in the place where the tax should have been paid.

ART. 419. Any person who by any act, threats, or concerted action organizes or attempts to organize the collective refusal of taxes shall be punished by the penalties provided for in article 1 of the act of August 18, 1936,<sup>39</sup> concerning attacks against national credit.

Any person who incites the public to refuse or to delay payment of taxes shall be punished by imprisonment of from 1 to 6 months and by a fine of from 50 to 1,000 francs.

<sup>37</sup> *Supra*, note 22.

<sup>38</sup> *Supra*, note 16.

<sup>39</sup> Journal Officiel of August 20, 1936, p. 8989. The penalties provided are imprisonment of from 3 months to 2 years and a fine of from 1,000 to 10,000 francs.



## PART II

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# CODE OF SECURITIES AND INVESTMENTS

*(Code des valeurs mobilières)*

## COMMENTS ON THE TAX ON INCOME FROM SECURITIES AND INVESTMENTS

Prior to the codification of the tax laws, different categories of capital investments were taxed under three different statutes successively enacted to eliminate gaps through which income from such sources escaped taxation. The tax which these statutes imposed was, in substance, the same; it was in each instance designated a tax on income from securities, but liability for the tax and the method of assessment and payment were governed by different statutes:

a. Income from stocks and bonds and the yield of loans of French and of certain foreign companies (*valeurs mobilières*)—namely those which concluded a so-called composition agreement (*abonnement*) for the payment of this tax (*sociétés abonnées*, see *infra*) with the French tax administration—were taxed under the act of June 29, 1872. The provisions of this act are at present articles 50–58 of the code.

b. The act of March 29, 1914, subjected to the tax imposed by the act of June 29, 1872, the yield from securities of foreign companies and corporations which did not conclude such agreements for the payment of the tax (*sociétés non abonnées*); it likewise covered the yield from foreign government bonds. Both of these types of investments had theretofore escaped the tax.

c. Finally, the act of July 31, 1917 (art. 38), provided for the taxation of income from loans, deposits, and guarantees (*créances, dépôts, et cautionnements*). The rules governing the taxation of income from this category of capital investments are at present included in articles 71–85 of the code.

Reference has already been made to the peculiar position of the tax on income from securities and investments in the French tax system. The fact that this tax is, perhaps more than any other French tax, of particular interest to foreign business men and investors, was also pointed out (*supra*, p. 3). With this consideration in view, the following observations would seem to be useful:

1. The tax on income from capital investments is the most burdensome of all the French income taxes, both by reason of its high rate (see arts. 51, 63, and 72 of the code and *cf.* with the rates for the taxes on various other categories of income fixed by the Code of Direct Taxes) and because of the absence of any provision for deductions on account of dependents, expenses, etc., which are allowed in the case of the other income taxes. This is another indication of French fiscal policy which, as a rule, imposes a heavier tax burden on the yield of capital investments than on income from occupation or labor (*cf. supra*, p. 7, note 11). It is to be noted in this connection that the tax rate is considerably lower if the income is received by individuals from registered stocks or founders' shares or shares in various forms of partnerships or limited liability companies (art. 52) or from certain specified types of loans and deposits (art. 72).

2. As a general rule, the tax on income from capital investment is ultimately borne by the recipient of the income, for it is levied on the profit which the stockholder or bondholder or creditor derives from the investment and not on the profit made by the company. In the case of income from securities, the company itself may undertake to pay the tax on dividends or interest which it distributes, but in such case the amount of tax paid by the company must be added to the dividend or interest for purposes of computation of the tax (art. 56). In the case of loans, deposits, and guarantees, the tax must be borne exclusively by the creditor (art. 73).

3. The tax is usually withheld or advanced by the debtor or payer. In the case of stocks and bonds, the payer has a right of recourse against the security holder to recoup the tax by deducting it from the amount of dividend or interest (art. 56). This method of collecting the tax greatly simplifies the task of the tax administration since it thus deals with the comparatively small number of enterprises which pay dividends, interest, etc., instead of with an indeterminate number of investors. Another advantage of this procedure, according to French tax experts, is that it renders evasion more difficult and less likely.

4. The factor generating liability for payment of the tax varies according to the category of investments. In the case of stocks, liability arises by virtue of distribution of dividends and not from the vote fixing the dividends or from actual payment in cash of dividend checks. It is to be noted in this respect that the tax is due irrespective of whether distribution is made from surplus of the company. In the case of bonds and other securities with a fixed date for the payment of yields, liability arises on the due date of any such yield, irrespective of actual payment in cash. Finally, in the case of loans and deposits, liability arises when the investor receives the income either by means of actual payment or by its entry in an account.

5. The methods of computation and payment of the tax and the duties imposed, in order to control its payment, on the companies or financial establishments which act as tax collectors for the Treasury vary according to the form of business organization concerned. The rules governing the various situations are set forth in some detail in the code.

6. To ensure payment of the tax on income from foreign securities held or circulated in France, the issuers of such securities may choose between two systems provided for in French law:

a. *The regime of "abonnement."*—The "abonnement" is in substance an agreement between the French tax administration and the foreign company whereby the latter assumes the obligation to pay the taxes due on the yield of such proportion of its securities as are held or circulated in France, in the same manner as French companies. In consideration of this agreement, foreign securities under "abonnement" (*valeurs étrangères abonnées*) are assimilated to French securities. They enjoy the same tax rate as is applicable to French securities, which is considerably lower than the rate on foreign securities not under "abonnement." The Treasury has the advantage of dealing with the company and not with the security holder—as in the case of French companies. Foreign companies entering into an "abonnement" contract with the Treasury must either appoint an



agent in France—individual or corporation—responsible to the Treasury for the payment of the tax, or give a cash guarantee. The agent must be a French national of recognized reputation and solvency. As a rule, foreign companies appoint a French financial establishment to act as their agent. The list of foreign securities placed under the regime of “abonnement” is published on January 15 and July 15 of each year in the Annex to the Journal Officiel.

b. In the absence of such an agreement (*valeurs étrangères non abonnées*) a higher tax rate is applicable, except when such foreign securities are deposited, against registered certificates, with French financial establishments approved by the tax administration; in such case the lower tax rate provided for French securities and foreign securities under “abonnement” is applicable. If payment of the yield takes place in France, the tax is withheld by the bank or financial establishment effecting such payment. If the investor himself, or his agent, collects the dividend or interest abroad, the tax must be paid by him. This is the only situation in which the Treasury deals directly with the investor in connection with the tax on income from capital investments. Such investors are required to file a return with the Office of Registry Taxes, within the first 3 months of the calendar year, of the total yields received in the course of the preceding year. Fiscal evasions in such cases are punished with exceptional severity.

For obvious reasons foreign government securities are not under the “abonnement” regime.

It is to be noted that foreign securities may only be sold, quoted or circulated in France by special authorization of the Minister of Finance.

7. While the law is quite comprehensive in reaching almost every kind of yield from almost every conceivable type of capital investment, there is a fairly long list of exemptions (see arts. 106 ff. of the code), granted to governmental agencies or to enterprises pursuing social objectives such as labor organizations, cooperatives, low-cost housing societies, etc.

## PART II. CODE OF SECURITIES AND INVESTMENTS (CODE DES VALEURS MOBILIERS)

### TITLE I. STAMP TAX (IMPÔT DU TIMBRE)

ARTS. 1-33. [Omitted.]

### TITLE II. TRANSFER TAX (IMPÔT DE TRANSMISSION)

ARTS. 34-49. [Omitted.]

## TITLE III. TAX ON INCOME FROM SECURITIES AND INVESTMENTS (IMPÔT SUR LE REVENU DES CAPITAUX MOBILIERS)

### CHAPTER I. SECURITIES (VALEURS MOBILIÈRES)

#### SECTION I. GENERAL PROVISIONS

ART. 50. Apart from loans, deposits, and guarantees dealt with in chapter II of this title and subject to the exemptions provided for in title IV, chapter IV of this code, the following shall be subject to the tax on income from securities and investments:

1. Dividends, interest, and any other income from stock (actions) of whatever nature and from founder's shares (parts de fondateur)<sup>1</sup> issued by French or foreign corporations, companies, or enterprises, whether financial, industrial, commercial, or civil, whenever organized;

2. Interest, yields, and annual profits from partnerships, interests in French and foreign organizations, companies, and other enterprises whose capital is not divided into shares;

3. The amount received in total or partial liquidation of stock or other interest in companies designated in the preceding paragraphs, prior to their dissolution or winding up;

4. Bonuses ( tantièmes ), attendance fees, agreed refund of expenses, and any other remuneration paid upon whatever ground to a sole director or to members of the board of directors of companies referred to in the first paragraph above;

5. Attendance fees paid to shareholders in such companies at stockholders' general meetings;

6. Interest, and all other yields from loans and bonds of every kind issued by French municipalities, by larger political subdivisions (départements), by public agencies, by French and foreign corporations, companies, and enterprises of the type referred to above in paragraphs 1 and 2, and by foreign corporations, municipalities, provinces, or other agencies;

7. Interest, and all other yields from debentures, bonds, and other Government securities of French colonies and of foreign governments;

<sup>1</sup> In France, "founders' shares" are not represented by any capital value. They are merely profit-sharing rights after certain distributions on the ordinary shares and may be analogized to a director's percentage of profits. The fact of not representing any capital value is the essential difference between a founders' share (part de fondateur) and ordinary shares or stocks (actions).

8. Prize (lots) and redemption premiums paid to creditors and to bondholders of French and foreign loans, as well as bondholders of foreign government loans.

Income above described shall be computed, for payment of the tax, in accordance with the provisions of articles 53, 55, and 57.

The tax shall be payable irrespective of whether the amounts distributed have been paid out of profits.

If all shares of a company are concentrated in the hands of a single shareholder or partner, the tax shall be paid by such shareholder, irrespective of the method by which such concentration was effected, to the extent that the company's funds exceed the company's registered capital [i. e., irrespective of whether such surplus is actually distributed].

## SECTION II. FRENCH SECURITIES

### *A. Rates of tax*

ART. 51. The rate of the tax shall be as follows:

(1) 24 percent on income from all sources other than those indicated hereafter in paragraphs 2 and 3;

(2) 27 percent on income from sources indicated in article 50, paragraph 4;

(3) 36 percent on premiums paid to creditors and to bondholders.

ART. 52. The 24-percent rate provided for in paragraph 1 of the preceding article shall be reduced to 15 percent with respect to dividends, interest, and any other such income received by individuals from:

1. Shares, founders' shares, and bonds falling within the category of registered securities as defined in article 37, paragraph 1;

2. Partnership shares in civil associations, limited liability companies, and simple partnerships;

3. Loans, not represented by negotiable securities, issued by companies and organizations designated in article 50, paragraphs 1, 2, and 6;

4. The 3.5 percent redeemable French Government bonds issued by virtue of the act of June 20, 1914.

However, this reduction shall not apply to:

1. Yields from bonds and loans as to which the debtors or borrowers assumed the burden, in whole or in part, of paying this tax on income from securities and investments;

2. Yields from securities which were converted into registered securities less than 6 months before the date of distribution or the due date of the coupon.

### *B. Assessment and mode of collection of the tax*

ART. 53. The income shall be ascertained as follows:

1. With respect to shares, by the dividend fixed by stockholders' general meetings or by the board of directors as shown in the reports of proceedings or similar documents;

2. With respect to bonds and loans, by the interest paid in the course of the year;

3. With respect to partnership shares:

(a) If the company is subject to the duty of disclosing information [concerning its liability], by the resolutions of its board of directors or,



in the absence of such resolutions, by a declaration to be filed within 3 months following the close of the fiscal year, stating the profits actually distributed in the course of the preceding fiscal year;

(b) If the company is not subject to the duty of disclosing information [concerning its liability], by an estimate, fixed at 8 percent of the capital or of the average price paid for partnership shares during the preceding year, unless the tax administration or the taxpayer are in a position to prove, in a form permissible under the procedure applicable to registry taxes, the amount of profits actually distributed; in this latter case the tax shall be assessed on the basis of the amount thus established;

4. With respect to prizes, by the amount thereof expressed in French currency;

5. With respect to redemption premiums, by the difference between the amount repaid and the issuing price of the loan.

ART. 54. For the purpose of the tax on yields described in article 50, paragraph 4, members of boards of trustees (*conseils de surveillance*) of corporations registered in the provinces of Bas-Rhin, Haut-Rhin, and the Moselle in conformity with the German Commercial Code, shall be treated in the same manner as members of the boards of directors of corporations established in conformity with French law. (See art. 18, par. 1 of the act of June 1, 1924.)

ART. 55. Reports of proceedings and abstracts of resolutions of boards of directors or of stockholders' meetings shall be filed within 20 days with the registry tax office at the principal office of the company.

ART. 56. The amount of the tax shall be paid directly by the corporations, companies, enterprises, municipalities, or larger political subdivisions and public agencies concerned, subject to their right of recourse [against the security holders to recoup the tax].

ART. 57. The following matters shall be governed by administrative regulations:

1. The date of payment and other measures necessary for the enforcement of the tax due on yields described in article 50, paragraphs 1, 2, and 6;

2. The method of computing the issue price of bonds and loans described in article 50, paragraph 8, and other measures necessary for enforcement of said article;

3. The method of payment and other measures necessary for the enforcement of the tax due on yields described in article 50, paragraph 3;

4. The method of assessment and collection of the tax due on yields described in article 50, paragraph 4.

ART. 58. Violations of articles 50 to 56, or of the administrative order referred to in article 57, paragraph 1, shall be punished in accordance with article 44.<sup>2</sup>

### SECTION III. FOREIGN SECURITIES UNDER THE "COMPOSITION AGREEMENT" (*VALEURS MOBILIÈRES ABONNÉES*)

ART. 59. Foreign corporations, companies, enterprises, municipalities, provinces and other public establishments may [by entering into a composition agreement with the tax administration] obtain the same

<sup>2</sup> Art. 44 of the code provides for fine of from 100 to 5,000 francs.

rate provided for in section II of this chapter with respect to income from French securities, so far as their shares, bonds, and loans are concerned, whatever may be their denomination before or after their quotation, negotiation, sale or issue in France.

Subject to the reservation contained in article 61, the tax, which may be assessed on the basis of a fixed proportion of the registered capital, shall be assessed and collected in accordance with the provisions of articles 53, 55, and 56, and subject to the penalties provided for in article 58.

ART. 60. The tax shall be levied at the rates provided for in article 51.

The reductions allowed by article 52 shall only apply, subject to the conditions laid down in the first two paragraphs of that article, to registered securities and certificates of registration governed by article 49.

ART. 61. The tax on yields described in article 50, paragraph 4, shall be due only on the proportion of such yields as have been paid to members of the board of directors domiciled or residing in France.

The tax shall be paid in compliance with rules laid down by administrative regulation.

However, in case the companies concerned fail to pay the tax within the time limit provided, the tax administration may proceed directly against each of the members of the board of directors domiciled or residing in France.

ART. 62. When dividends, interest, and any other yields of foreign securities subject to the tax rate applicable to French securities are payable in francs or in foreign currency, at the choice of the bearer, or in gold, and are paid in foreign currency, the excess in French money over their nominal value in French francs at the rate of exchange on the day of payment shall be taxed at the rate of 24 percent provided for in article 50.

This tax shall be paid by the persons indicated in articles 65 and 66.

The tax shall be assessed and collected on the basis of and in accordance with the conditions set forth in articles 64-68.

#### SECTION IV. FOREIGN SECURITIES NOT UNDER COMPOSITION AGREEMENT (valeurs mobilières non abonnées) AND SECURITIES OF FOREIGN GOVERNMENTS

ART. 63. The tax rate shall be 30 percent with respect to yields described in article 50 which are not taxed under sections II and III of this title.

The rate shall be reduced to 24 percent with respect to foreign securities not subject to a composition agreement and foreign government bonds which are deposited against registered receipts in any bank approved by the tax administration which is entitled to accept such foreign securities for deposit and to issue registered receipts in exchange.

ART. 64. The tax due on securities referred to in this section shall be withheld by the bank or by the person in France who pays the dividend, interest, or other yield.

ART. 65. Every person engaged professionally in collecting, paying, or buying coupons, checks, or any other instrument of credit intended for the payment of dividends, interest, or any other yields of securities described in the preceding article shall be required to

file a declaration to that effect with the registry tax office (*bureau de l'enregistrement*) at his residence.

Persons described in the first paragraph of this article are forbidden to collect, pay, buy, or negotiate coupons, checks, or other instruments of credit without withholding the tax immediately or in advance if, by virtue of contract, the tax is payable by the issuer of the security—unless shown that the tax has already been withheld or advanced by a previous intermediary subject to the provisions of the present and following articles.

ART. 66. Every person presenting such coupons, checks, or instrument of credit for payment in France must at the same time file a dated statement (*bordereau*) for which he may request a receipt. This statement need not contain the name, signature, or address of the person who files it.

The payer shall at once enter on this statement the amount of the tax withheld or advanced by him.

Persons described in the preceding article who negotiate in France coupons, checks, or other instrument of credit on which the tax has already been withheld by such persons or by a previous intermediary shall be required to enclose, in support of each transaction, a dated and signed statement.

Such persons shall be required to keep two record books (*registres*) on unstamped paper in which they shall enter, day by day, and without blanks or interlineation, every payment or negotiation of coupons, checks, or other instrument of credit on which the tax must be withheld.

The record books and statements shall be preserved for 2 years and shall be made available whenever required by the agents of the registry taxes.

Administrative orders shall determine the dates on which the tax shall be paid, the information to be entered in the statements, receipts and record books, the amount of remittances, the mode of payment, and all other measures necessary for the execution of this article and of articles 64 and 65.

ART. 67. An owner or beneficiary of foreign securities who is domiciled in France and who causes dividends, interest, or any other yields of such securities to be collected abroad either directly or through an agent, shall be required to file, within the first 3 months of the year, with the registry tax office of his domicile, a declaration showing the aggregate amount of these dividends, interest, or other yields collected during the preceding year, and to pay the tax due on that amount.

A person who violates the preceding paragraph shall be punished by a fine equal to five times the amount of which the Treasury was deprived in each of the years preceding that in which the violation was discovered; however, no back claims can be enforced beyond 10 years.

ART. 68. Notwithstanding the provisions of articles 64 and 67, the tax on income from foreign securities not subject to a composition agreement with respect to which banks have issued a certificate in France shall be advanced and paid into the Treasury by such banks, subject to their recourse against the certificate holder, under the penalties provided for in article 70, paragraph 2, within 10 days after such banks collect the yields of securities represented by these cer-



tificates. The certificate holders shall not be subject to the duties imposed by article 67.

An executive order shall lay down the conditions with which the certificates and the documents to be supplied by the issuer to permit control of the payment of the tax must comply, and all other measures necessary for the execution of this article.

ART. 69. The tax due on the yields of securities of foreign organizations described in article 50, paragraphs 2, 3, and 4 which are not subject to a composition agreement shall be paid in the first 3 months in each year, under penalty of the fine provided for in article 67, paragraph 2, on the basis of a declaration filed by the beneficiary with the registry tax office at his domicile or residence, setting forth the precise amount of such yield during the preceding year.

ART. 70. Violations of the provisions of article 65 and of the administrative order provided for in the last paragraph of article 66, as well as failure to pay [into the Treasury] the tax which was withheld or advanced in compliance with the said article, shall be established by a statement drawn up by agents of the registry taxes, by judicial police officers, by agents of the direct taxes, indirect taxes, and by customs officers.

Criminal proceedings for such violations shall be instituted upon the request of the administration of registry taxes, and the punishment shall be a fine of from 1,000 to 10,000 francs, in addition to a fine equal to five times the sum of which the Treasury has been deprived. Articles 59 and 60 of the Criminal Code shall be applicable.

The penalties provided for in the preceding paragraph shall be applicable to any persons who derive or attempt to derive any profit from the violations committed.

Violations of articles 66 and 67 and of the administrative order foreseen in the last paragraph of article 66 shall be ascertained and prosecuted according to the procedure applicable to stock exchange operation and shall be punished by a fine of from 100 to 10,000 francs.

Violations of the provisions contained in the first paragraph of article 65 shall, if the offender is engaged in business on his own as well as on account of third parties and has no place of business in France, be punishable by imprisonment of from 6 months to 1 year and by a fine of from 1,000 to 10,000 francs; in case of repetition of the offense, the penalty shall be imprisonment of from 1 to 2 years and fine of from 10,000 to 25,000 francs.

ART. 70b. The tax on income from securities due on funding certificates issued by foreign states shall be payable at the time of first negotiation of such securities and shall be liquidated on the price of such negotiation.

## CHAPTER II. LOANS, DEPOSITS, AND GUARANTEES

ART. 71. The tax on income from securities and investments established by articles 50 and ff. shall be payable on the interest and any other yield of:

1. Mortgage debts, whether simple or preferred, exclusive of commercial transactions which do not present the juristic characteristics of a loan;

2. Deposits of sums of money, whether on current account or for a fixed period, whoever may be the depositary and whatever the earmarking of the deposit;

3. Cash guarantees;
4. Running accounts.

ART. 72. The rate of tax shall be 24 percent.

It shall be reduced to 15 percent with respect to interest or any other yield received by natural persons, under the conditions set forth in the last two paragraphs of article 52, from:

1. Registered bonds as defined by the first paragraph of article 37, and loans not represented by negotiable securities (when such interest or other yields fall under article 71);

2. Loans, with the exception of those contemplated in articles 424 and 425 of the code of registry taxes and of those which are represented by promissory notes or bills payable to bearer or by any other negotiable instruments;

3. Deposits and guarantees;

4. Running accounts.

ART. 73. The tax shall be based on the gross amount of interest or other yields of the investments described in article 71.

It shall be due upon payment of interest, in whatever way effected, or upon entry thereof as a debit or credit to an account, when the creditor has a domicile or residence or an industrial or commercial establishment in France, out of which the loan, deposit, or guarantee arises.

It shall be borne exclusively by the creditor, any contrary agreement, whenever made, notwithstanding; nevertheless [as to the Treasury], the creditor and the debtor shall be jointly liable for the tax.

ART. 74. In the case of interest on loans evidenced by a notarial instrument executed in France, the tax shall be withheld by the debtor at the time of payment of the interest and shall be paid by him, within a month thereafter, to the registry tax office of his real domicile or, if domicile was chosen at the time of executing the notarial instrument, to the registry tax office of his elected domicile. The payment of the tax shall be accompanied by a declaration of the amount of interest paid; it may be made for and on account of the debtor by the notary.

If the loan contract provides for payment of interest at two or more dates within 1 year, the tax payment provided for in the preceding paragraph shall be made within a month from the due date of the last interest payment [during such year].

ART. 75. When the debtor is domiciled outside of France, the creditor who receives the interest shall pay the tax to the registry tax office of his domicile under the conditions and within the time limits set forth in articles 74, 79, and 80.

ART. 76. In all cases other than those provided for in articles 74 and 75, the tax shall be paid as follows:

- a. If payment of interest or its entry in an account as a debit or credit is made in France [it shall be paid], by putting a revenue stamp on the receipt or on the account in which the entry was made. An administrative order shall promulgate special rules for the payment of the tax on interest entered as a debit or credit in an account;

- b. If payment of interest or its entry in an account as a debit or credit is made outside of France, or if interest was paid in France without written evidence thereof [it shall be paid], by a declaration

stating the amount received, to be filed by the creditor in the registry tax office within the first 3 months of the following year.

ART. 77. If interest on a loan evidenced by a notarial instrument executed in France has not been paid at the due date or if the loan has been repaid, the debtor, or the notary on his behalf, shall file a declaration to that effect in the tax office designated in article 74, within 2 months from the due date or repayment.

If the instrument evidencing the loan provides for payment of interest in two or more installments in less than 1 year or provides that repayment of capital may be effected in two or more installments, the declaration provided for in the preceding paragraph shall be filed within 2 months from the last installment of interest or capital payment in the course of the year.

If the loan is subject to any novation or any other transaction the result of which is to substitute a new debtor for the original debtor, a declaration thereof shall be filed with the same tax office by the new debtor or by the notary within 2 months from the date of such transaction.

ART. 78. If the interest-debtor is domiciled abroad, the declaration provided for in article 77 shall be filed by the creditor, if interest has not been paid within the time prescribed in the said article or if the loan is repaid or is subject to any transaction the result of which is to substitute a new for the original debtor.

ART. 79. In the cases provided for in articles 74 and 75, when a loan including unpaid interest is repaid in whole or in part, the tax shall be computed by first charging the amount of such repayment to the interest.

This provision shall not apply to reductions of debts established by judicial decision or to repayments by order of a court or to distribution to creditors by agreement or under the supervision of a court.

ART. 80. An administrative order shall determine the measures necessary for the enforcement of articles 71 and 76.

The declaration provided for in articles 74 and 77 shall be made out on blanks supplied by the tax administration free of charge; the content and form of these blanks shall be determined by departmental order [of the Minister of Finance]. This departmental order shall lay down the conditions under which notaries may file collective declarations under articles 74 and 77; it shall also determine the content of such collective declarations.

ART. 81. Violations of article 76 or of the administrative orders provided for in articles 76 and 80 shall be punished by a fine of 50 francs for each violation, in addition to the payment by the creditor of a fine equal to five times the amount of which the Treasury was deprived in each of the years preceding that in which the violation was discovered; however, no back claims can be enforced beyond 10 years.

ART. 82. A notary who receives a loan instrument shall be required to read the provisions of articles 71, 73, and the first paragraph of article 81 to the parties thereto.

The fact that these articles have been read [to the parties] shall be expressly stated in the notarial instrument, under a penalty of 100 francs.

ART. 83. Satisfaction of liens guaranteeing the sales price of a business concern may not be recorded without proof that the tax, provided for in article 71, on the interest on such price has been paid.



This provision shall be deemed to be interpretative so far as the application of this tax to the interest on sales price of business concerns is concerned.

ART. 84. Satisfaction of all other liens, mortgages, or pledges, guaranteeing interest-bearing loans, may not be recorded without proof that this tax on the interest has been paid.

A decree shall determine the form and the method of presentation of proof.

Registrars of mortgages, collectors of customs, and registrars of commercial courts who violate the provision of article 83 or the decree provided for in the preceding paragraph shall be personally liable for a fine of from 1,000 to 5,000 francs.

ART. 85. The provisions of articles 83 and 84 shall not apply to interest due by virtue of notarial instruments executed in France, when the due date is subsequent to the promulgation of the act of May 31, 1933.

### CHAPTER III. ASSOCIATIONS WHOSE OBJECT IS NOT THE DISTRIBUTION OF INCOME

ART. 86. All religious congregations and associations, whether or not authorized, and all societies and associations whose purpose is not the total or partial distribution of their revenues among their members, shall be required to pay the income tax provided for in article 50 at the rate established by article 51, paragraph 1.

Their income shall be estimated at 5 percent of the gross value of movable and immovable property owned or occupied by such societies, unless a higher income can be shown; and the tax shall be paid pursuant to a detailed declaration showing item by item what the property consists of and its value.

The tax for the preceding year shall be paid by the society or association in the first 3 months of the year, following the submission of extracts from its resolutions and proceedings or other similar documents and of a declaration made out in compliance with article 72 of the code of registry taxes.

Inaccuracy of the declarations, resolutions, proceedings, or similar documents may be ascertained in accordance with articles 168 ff., and article 183 of the code of registry taxes.

Every violation of the preceding provisions or of the administrative order to be issued in execution thereof shall be punished according to article 44.

The provisions of section I of this title shall be applied so far as they do not conflict with the provisions of this article.

### CHAPTER IV. PROVISIONS APPLICABLE TO CIVIL SOCIETIES

ART. 87. Civil societies established by virtue of articles 1832 ff. of the civil code shall be required to file with the registry tax office of the place where they have their headquarters, a declaration which shall indicate:

1. The purpose, the location, and the duration of the society;
2. The date of the document whereby it was created or whereby its constitution was changed, together with the date of recording of either of these documents; a certified copy of these documents shall be attached to the declaration;

3. The name and domicile of each of the partners, directors, or managers;

4. The nature and value of movable and immovable property constituting its assets;

5. The rights allotted to the partners in the sharing of profits and in the firm's assets, whether or not these rights are evidenced by shares delivered to the parties entitled.

This declaration shall be filed within a month from the date of legal organization of such societies.

In case of modification of the nature of the firm's assets, of change of headquarters, of replacement of a director, manager, or one or more partners, such societies shall be required to file a declaration to that effect, within a month of the change, with the tax office at which the original declaration was filed and at the same time shall file a copy of the document by virtue of which the modification or the change was effected.

ART. 88. Every violation of the preceding provisions shall be punished by a fine of from 100 to 5,000 francs, without prejudice to a penalty of 10 percent of the amount of movable or immovable property which was omitted from or was insufficiently valued in the declaration.

Omissions shall be proceeded against within the time and according to the procedure applicable to declarations of transfer by death.

Undervaluation of movable or immovable property shall be established by expert inquiry conducted in accordance with articles 170, 171, 173, and 174 of the code of registry taxes.

In the absence of a declaration provided for in article 87, the documents creating or modifying civil societies may not be used as the basis of objection to the action of the tax administration in the collection of any of the taxes claimed by virtue of the laws in force.

ART. 89. The provisions of articles 87 and 88 shall be applicable to civil societies established abroad by French nationals or including one or more partners of French nationality. The declarations provided for in article 87 shall be filed with the registry tax office at the domicile of any one of the partners of French nationality.

Such societies shall be subject in France to all fiscal obligations imposed on foreign societies by the laws in force, particularly by article 3 of the administrative order issued by virtue of article 57, paragraph 1, concerning the tax on income from movable and immovable property owned in France by foreign societies, corporations, and enterprises.

#### CHAPTER V. MISCELLANEOUS PROVISIONS

ART. 90. The statute of limitations shall be 5 years in actions by the Treasury to recover the tax on income from securities established by the present title, excepting, however, the cases provided for in articles 67, 81, paragraphs 1 and 90b.

The statute of limitations shall operate from the date of collectibility of the tax and of the fines.

In the case of societies whose existence has not been made public by legal publications, and in the case of societies and establishments which are not legally subject to investigation by agents of the registry taxes, the statute of limitations shall operate against the Treasury only from the date as of which it was in a position to determine the

liability for the tax by reason of a document subject to a registry tax or of any document filed with an office competent to collect the tax.

In the case of societies and establishments subject to investigation by the administration of registry taxes, the operation of the statute of limitations shall be suspended if it is shown that there has been a refusal of access to the archives and books and if subsequent proceedings are instituted within 1 year, unless final judgment in such proceedings is given against the Treasury. In such case, it shall begin to operate from the date as of which the administration freely exercises its right of control, as evidenced by an entry of an agent of the administration in one of the principal books of the society or establishment.

Actions of taxpayers against the Treasury for taxes improperly collected shall also be barred in 5 years from the date of collection.

ART. 90b. Every act which suspends the operation of the statute of limitations with respect to interest due to the holders of securities of a loan, as provided for by the act of July 16, 1934, shall also suspend the operation of the statute of limitations in favor of the Treasury with respect to taxes due to it on the interest described in article 1 of the said act.

ART. 91. The collection of the tax on income from securities and investments established by the present title shall be carried out and proceedings shall be instituted and decided in accordance with the procedure applicable to registry taxes, reserving the procedure to be followed in the case of violations described in article 70, paragraph 1.

ART. 92. Holders of registered securities issued by French municipalities or larger political subdivisions, by the Crédit foncier de France and by French and colonial railroad companies shall be entitled to reimbursement of one-half of the tax on income from securities, which was withheld and paid on their behalf in compliance with article 53, paragraph 2 and article 50, provided that:

1. They prove a permanent residence in France on January 1 of the year during which such interest was received;
2. They prove that they were not subject to the general income tax on account of their total income in the course of that year.

Reimbursement may only be claimed during the year following that in the course of which such interest was paid.

Every inaccurate declaration shall be punished by a fine equal to five times the amount of the tax reimbursement which was improperly obtained thereby; but the fine shall in no case be less than 500 francs. An administrative order shall determine the conditions necessary for the application of this article.

#### TITLE IV. PROVISIONS APPLICABLE TO THE 3 TAXES [ON SECURITIES AND INVESTMENTS]<sup>3</sup>

##### CHAPTER I. THE PLACE OF PAYMENT OF TAXES DUE FROM FRENCH COMPANIES

ART. 93. The amounts due from French companies on account of \* \* \* the tax on income from securities and investments shall be paid at the Registry Tax Office designated by the tax administra-

<sup>3</sup> I. e., the Stamp tax (*droit du timbre*), the Transfer tax (*impôt de transmission*) and the tax on income from securities.



tion; this may be at the place where the head office [siège social], the administrative headquarters [siège administratif] or the principal establishment of the company is located.

## CHAPTER II. PUBLICITY OF SECURITY ISSUE

ARTS. 94-95b. [Omitted.] <sup>4</sup>

## CHAPTER III. RIGHT OF ACCESS TO DOCUMENTS

ART. 96. Keepers of the registers of births, marriages, and deaths, and those of the tax rolls, and every person in charge of archives and public documents, notaries, bailiffs, clerks of court, and secretaries of governmental or municipal authorities shall permit agents of the administration of registry taxes to inspect the documents in their charge, upon their request, and shall let them obtain, free of charge, extracts, copies, or information which they deem necessary in the interest of the Republic, subject to a fine of 10 francs for each refusal evidenced by a statement of such agent as provided in article 242 of the code of registry taxes. \* \* \*

ART. 97. [Omitted.] <sup>6</sup>

ART. 98. In civil suits and criminal prosecutions the Government attorney (ministère public) may permit the inspection of the records by agents of the administration of the registry taxes and of the direct taxes.

The judicial authorities shall communicate to the tax administration any information which indicates the commission of a fiscal fraud or any transaction which aims at, or may result in, the evasion of a tax, irrespective of whether such information became available in a civil or commercial suit or in a criminal proceeding, and even though such suit was dismissed.

The records of any suit shall remain in the court's record office at the disposal of the tax administration for 15 days following a decision rendered by any civil, administrative, commercial, military, or industrial court or board.

This time limit shall be reduced to 10 days in the case of minor offenses dealt with by the police courts.

Every arbitration award, irrespective of whether the arbitrators were appointed by a court or chosen by the parties, and every agreement entered during a proceeding, during or pursuant to an expert inquiry or arbitration, shall be recorded in an official report which shall be filed within a month in the record office of the competent court, together with the documents in the case. This official report shall be at the disposal of the fiscal administration for a fortnight from the date of filing.

<sup>4</sup> These articles subject the issuance, sale, and circulation in France of all French and foreign securities to the publication in the Journal officiel of certain information concerning the issuing company. Besides the name, head office, and purpose of the enterprise, the statement must include the amount of registered capital, the issue price of each category of shares, the amount of partly paid capital, and a certified copy of the last balance sheet. The number of securities already issued, together with the guarantees attached to such securities, must also be stated; in the case of a new issue, the number and value of the securities, the interest to be paid, the date and conditions of repayment and the guaranty pledged must be indicated. Finally, the statement must indicate any special benefits in favor of founders, directors, managers; assets other than cash; the procedure to be followed in calling stockholders' general meetings and their place.

Notices, prospectuses, circulars, and newspaper advertisements must contain the same information.

Foreign companies are required, moreover, to publish the full text of their articles of association in French. The main purpose of these articles is of course the protection of investors. However, the requirement of this publicity is also a useful device for keeping the Treasury informed about the existence of taxable securities.

<sup>6</sup> Art. 97 provides right of access to documents for the purpose of verifying the payment of stamp and registry taxes.

ART. 99. The administrative agencies of the State, departments, and municipalities, and enterprises licensed or controlled by the State, municipalities, or larger political subdivisions, and all other establishments or organizations subject to the control of administrative authorities may in no case invoke against the agents of the fiscal administration, having the rank of at least an assessor or assistant inspector, the duty of keeping professional secrets, when access to records in their possession is requested by such agents for the purpose of assessing taxes provided for by the law in force.

ART. 100. The keepers of share and bond registers shall permit agents of the administration of registry taxes, upon their request, to inspect such registers in accordance with and subject to the penalties provided for in article 222 of the code of registry taxes.

ART. 101. [Omitted.]<sup>7</sup>

ART. 101b. Mutual agricultural credit institutions established in conformity with the act of August 5, 1920, and entitled to benefit by the fiscal exemptions provided for in the said act or in subsequent legislation, shall be subject to control by the State.

Such organizations shall disclose upon request and subject to the penalties provided for hereafter in article 104, to agents of the Treasury having the rank of at least assessor or collector, their books or other documents showing that they function in compliance with the provisions of the act of August 5, 1920 (art. 1 of the decree of October 30, 1935, establishing control over agricultural credit institutions entitled to benefit by the fiscal exemptions provided for in the act of August 5, 1920).

ART. 102. In order to make possible the verification of tax returns and to control possible tax evasions within the time limit of the statute of limitations, every businessman who has an [annual] turn-over exceeding 50,000 francs and who is not assessed with the turn-over tax (*taxe sur le chiffre d'affaires*) on the basis of an arbitrary estimate shall, upon request, permit agents of the Treasury having the rank at least of an assessor or assistant inspector to inspect the books which he is required to keep in compliance with the provisions of title II of the code of commerce, and all other books, documents, receipts for income, and expenses annexed thereto.

Refusal to permit inspection of books, or their destruction before the time limit set in article 11 of the code of commerce, shall be recorded in an official statement.

ART. 103. The powers with which agents of the administration of registry taxes are invested by virtue of the law in force with respect to joint-stock corporations may be exercised against all persons or establishments engaged in the banking business with a view to verifying the payment of taxes due from such persons as well as from their clients.

ART. 104. The fine imposed for refusal to permit access to books, as provided for in articles 101 and 102, shall be of from 1,000 to 10,000 francs.

Independently of this fine, French and foreign companies and all other persons subject to control by the agents of the administration of registry taxes may be ordered to produce the books or documents

<sup>7</sup> Art. 101 provides right of access to documents for the purpose of verifying the payment of stamp and registry taxes by insurance companies, by religious societies, civil associations, and limited liability companies.

which they have failed to open for inspection, under a fine of 100 francs at least for each day's delay. This daily fine (*astreinte*) shall begin from the date on which the official statement, recording the refusal to execute the properly served order, was signed by the parties or notice given thereof; it shall cease to be due only on the day when an agent of the tax administration records in one of the principal books of the company or establishment that the administration has obtained access to the documents sought.

The daily fine shall be collected by the procedure applicable to registry taxes.

ART. 105. If a regular complaint has been filed by the tax administration against a taxpayer and legal proceedings have begun, the agents of the administration may not plead before the examining magistrate that they are bound to keep professional secrets when they are examined concerning the subject of the complaint.

## CHAPTER IV. EXEMPTIONS

### SECTION I. FRENCH SECURITIES

#### *A. Exemptions applicable equally to the stamp tax, transfer tax, and income tax*

ART. 106. The following shall be exempt from the taxes imposed on securities:

1. Staff shares (*actions de travail*) of joint-stock companies in which labor shares in the profits (*sociétés anonymes à participation ouvrière*) such as described in the act of April 26, 1917, when such shares are equal to at least one-fourth of the capital;

2. Capital shares of mutual maritime credit societies established by the act of December 4, 1913;

3. Securities issued by municipalities and larger political subdivisions abroad, under the conditions set forth by article 11 of the act of September 28, 1916, and by the act of September 29, 1919, if such securities are not negotiable in France;

4. Annuities paid by the State; loans contracted by victims or by groups of victims of a disaster in accordance with articles 152 ff. of the act of July 31, 1920, article 67 of the act of December 31, 1920, and article 40 of the act of February 28, 1921; and loans contracted by municipalities or larger political subdivisions in devastated regions in accordance with article 40 of the act of February 28, 1921;

5. Securities of the "Crédit national" up to the amount of loans granted by that institution which are secured by the annuities referred to in the preceding paragraph 4;

6. Loans contracted, other than through public subscription, by municipalities or groups of municipalities within the [geographical] zones described in the departmental order of August 12, 1919, issued in pursuance of the act of April 17, 1919; and the holders of non-transferable securities referred to in article 10 of the act of February 28, 1925, up to the amount secured on such loans;

7. Securities issued by the postal, telegraph, and telephone service;

8. Annuities paid by the State to organizations benefiting by the act of July 11, 1933, and loans contracted by such organizations;

9. Loans of whatever nature contracted exclusively with a view to make payment, on account of compensation, of sums due from



former assignees of supplementary charges for finished products, provided that they have been contracted within 6 months from the date of the promulgation of the act of April 14, 1932, or from the date of notification of a final decision;

10. Securities of February 1932, issued by the "Crédit National" up to the amount equal to the sum of loans referred to in article 2 of the act of April 14, 1932;

11. Securities issued by the "Crédit National" by virtue of the agreement of February 12, 1924, approved by the act of March 15, 1934;

12. Loans contracted by public agencies, societies, or foundations for low-cost housing, in accordance with the conditions set forth in article 5 of the act of July 27, 1934, and annuities paid by the State in carrying the said article into effect (art. 7, par. 2 of the act of July 27, 1934, modified by art. 68 of the act of December 31, 1935);

13. Secured loans granted by grain merchants to farmers in accordance with the conditions set forth in article 1 of the decree of October 30, 1935, enabling grain merchants to extend loans secured by the harvest.

ART. 107. Bonds issued by virtue of the acts of April 4, 1889, and June 13, 1896, shall also be exempt from all taxes except the tax imposed on prize premiums (lots) in article 50, paragraph 8.

#### *B. Exemptions from the stamp tax*

ARTS. 108-115. [Omitted.]

#### *C. Exemptions from the transfer tax*

ARTS. 116-118. [Omitted.]

#### *D. Exemptions from the tax on income from capital investments*

##### CAPITAL AMORTIZATION

ART. 119. The provisions of article 50, paragraph 3, shall not apply to amortizations paid out of realizable assets and by means of appropriations from reserves of balance sheet items other than the profit or loss account.

It shall further not apply to:

1. Companies whose articles of association provided, prior to the publication of the act of July 13, 1925, for the compulsory redemption of their shares;

2. Companies operating a concession granted by the State, municipalities or larger political subdivisions, colonies and protectorates, which prove that amortization by reimbursement of all or part of the registered capital, or partner's shares is justified by depreciation (caducité) of all or part of the company's assets, specifically by reason of the gradual dwindling of such assets or by the necessity of remittance to the grantor authority at the expiration of the concession. An administrative order shall determine the procedure to be followed in determining, in each instance, that the transaction has the character of such amortization and that the exemption is justified.

ART. 120. When shares have been redeemed by any of the methods described in the preceding article, the distribution of the assets, when the company is wound up, among the holders of redeemed shares

(actions de jouissance) <sup>8</sup> not exceeding the number of original shares shall be considered as repayment of capital exempt from the income tax.

#### SAVINGS BANKS

ART. 121. Interest on sums entered in savings bank books shall be exempt from the tax on income from securities and investments established by title III, chapter II, of this code.

#### CREDIT TO SMALL INDUSTRY AND COMMERCE

ART. 122. Mutual surety companies whose articles of association and functions conform to the provisions of the act of March 13, 1917, and people's banks which satisfy the conditions set forth in the said act, shall be exempt from the tax on income from securities and investments.

The Minister of Finance shall have power, wholly or in part, to deprive people's banks of the exemptions granted by article 111, and paragraph 1 of the present article, upon a report of the General Fiscal Inspectorate or of the Examiners' Board of the Trade Association of People's Banks.

#### CREDIT TO ARTISANS' COOPERATIVE SOCIETIES

ART. 123. Artisans' cooperative societies and their federations described in the act of December 27, 1923, shall be exempt from the tax on income from securities and investments.

#### COLONIAL CREDITS

ART. 123b. Interest on loans granted by the "Crédit colonial" shall be exempt, in the mother country, from the tax on income from securities and investments. (Art. 12 of the decree of August 8, 1935, providing for the establishment of colonial credits.)

ART. 123c.<sup>9</sup> Interest on loans and credits with respect to which an interest rebate (bonification d'intérêt) was granted to the borrower by virtue of title III of the decree of August 25, 1937, with a view to the encouragement of building, shall be exempt from the tax on income from securities and investments.

#### MARITIME CREDITS

ART. 124. Interest and any other yield of loans or credits granted pursuant to the convention approved by the act of August 1, 1928, shall be exempt from the tax on income from securities and investments.

#### MUTUAL MARITIME CREDITS

ART. 125. Interest on all loans granted by mutual maritime credit associations established and functioning in conformity with the act of December 4, 1913, shall be exempt from the tax imposed by title III, chapter II, of this code.

<sup>8</sup> This form of share is unknown in common law jurisdictions. In France this expression is used to designate shares with respect to which the capital has been repaid pursuant to a drawing by lot but which continue to participate in profits. In the case of winding up, they are entitled to participate in the distribution of assets.

<sup>9</sup> Art. 123c was added to the code by art. 16 of the act of December 31, 1937 (Journal officiel, January 1, 1938). Although the exemption there granted does not relate to colonial credits, no specific heading for this article is indicated in the amending statute.

## MUNICIPAL CREDITS

ART. 126. The tax imposed by title III, chapter II, of this code shall not apply to interest on secured loans granted by municipal credit institutions.

## MUTUAL CREDIT AND AGRICULTURAL COOPERATION

ART. 127. The provisions of title III of this code concerning the tax on income from securities and investments shall not apply to:

1. Partners' shares, loans, or securities of mutual credit societies, of cooperative societies or their federations, described in the act of August 5, 1920, as modified and amended by the acts of December 30, 1922, and July 12, 1923, by the decree of August 8, 1935, and by the act of August 26, 1936, and, finally, of collective farmers' association which received credits from the State (decree of August 8, 1935, determining the fiscal status of farmers' cooperatives; art. 4 of the act of August 26, 1936, to facilitate the federation of farmers' and consumers' cooperatives with a view to lowering the cost of living);

2. Interest on loans granted by agricultural credit banks established and functioning in accordance with the said act, including loans made before January 1, 1928;

3. Interest or any other yields of current accounts of mutual agricultural credit banks in [other] credit institutions.

The exemption provided for in paragraph 3 of this article shall not apply to interest on deposits made in such banks by nonmembers.

## CRÉDIT NATIONAL

ART. 128. Interest on loans granted by the "Crédit national" pursuant to the convention approved by the act of October 10, 1919, from funds obtained by the issue of bonds or other securities subject to the tax on income from securities and investments, shall be exempt from this tax.

ART. 129. Loans granted by the "Crédit national" pursuant to article 5 of the act of April 14, 1932, shall be exempt from the tax on income from securities and investments.

ART. 129*b*. Interest on loans granted by the "Crédit national" to the "Crédit colonial" for the purpose of social reforms shall be exempt from the tax on income from securities and investments. (Art. 11 of the decree of August 8, 1935, concerning the establishment of the "Crédit colonial.")

## LOANS OF FRENCH COLONIES, PROTECTORATES, AND MANDATES

ART. 130. Interest and all other yields of bonds and public securities issued after the promulgation of the act of December 29, 1929, by Algeria, by French colonies, protectorates and territories, under French mandate, shall be exempt from the tax on income from securities and investments.

LOANS OF MUNICIPALITIES, LARGER POLITICAL SUBDIVISIONS,  
AND PUBLIC ORGANIZATIONS

ART. 131. Interest and all other yields of loans obtained after the promulgation of the act of December 29, 1929, by municipalities, larger political subdivisions, and public organizations, from the



"Caisse des dépôts et consignations," the "Crédit foncier," the "Crédit national," or from savings banks, shall be exempt from the tax on income from securities and investments.

Interest and all other yields of loans made by these organizations through direct public subscription shall enjoy the same exemption, from the date of the promulgation of the said act.

The exemption shall apply to all loans contracted by these organizations before January 1, 1930, if the tax burden was assumed by such organizations.

#### LOANS TO VICTIMS OF DISASTERS

ART. 132. Interest on loans contracted by victims of disasters, secured by bonds delivered to them pursuant to article 17 of the act of February 28, 1926, shall be exempt, within the limits of the pledge, from the tax provided for in chapter II, title III of this code.

ART. 133. Interest and all other yields of loans granted by the "Crédit foncier de France," by the regional agricultural credit banks and by the "Crédit national," by virtue of the agreements approved by the act of April 16, 1930 (concerning the reparation of damages caused by the storms of March 1 to 10, 1930), shall be exempt from the tax on income from securities and investments.

ART. 134. Loans of whatever nature contracted exclusively with a view to make payment, on account of compensation, of sums due to former assignees of supplementary charges for finished products shall be exempt, throughout their existence, from the tax established by title III, chapter II of this code, provided that they have been contracted within 6 months from the promulgation of the act of April 14, 1932, or from the date of notification of a final decision.

#### LOW-COST HOUSINGS

ART. 135. The following shall be exempt from the tax on income from securities and investments:

1. Stocks and partners' share of low-cost housing societies and land credit associations as defined in the act of December 5, 1922, of bathing societies, of workmen's garden associations and of organizations functioning by virtue of article 46 of the said act, provided that observance of the rules prescribed in that act by all purchasers of gardens or lands is proved;

2. Securities and loans of the organizations designated in the preceding paragraph, loans contracted by public agencies (created by virtue of arts. 8 ff of the act referred to) for low-cost housing;

3. Loans granted or deposits made by the organizations designated in paragraph 1 of this article, by the public agencies and foundations for low-cost housing established by and functioning in accordance with the act of December 5, 1922, as well as associations recognized to serve the public interest by virtue of article 32 of the said act;

4. Loans granted to individuals by savings banks in accordance with article 37 of the said act.

#### LAND DEVELOPMENT

ART. 136. Loans granted by departmental banks in the execution of the act of March 15, 1928, enacted to facilitate the planning of defective land developments, shall be exempt from the tax on income from securities and investments.

## SECURED LOANS

ART. 137. Interest and all other yields of loans made, in whatever form, by French joint-stock companies which issue, to evidence such loans, bonds or other loan securities which themselves are subject to the tax on income from securities shall be exempt from this tax. The tax-exempt loan may not exceed the amount of the bonds or other securities issued, which fact must be proved by the company.

ART. 138. Interest on mortgage loans and preferred debts for which companies authorized by the Government to engage in land credit transactions have issued bonds or other securities which themselves are subject to the tax on income from securities shall be exempt from this tax.

## LIMITED LIABILITY COMPANIES

ART. 139. In the case of companies described in the act of March 7, 1925, dividends, interest, and the yield of partners' shares, to the two managing partners not exceeding 50,000 francs for each, shall be exempt from the tax on income from securities and investments.

## MINING SOCIETIES

ART. 140. The increase of capital of mining societies whose mines are located on territories which were invaded or destroyed by the enemy shall not be subject to the tax, provided that such societies have been transformed into joint stock companies in accordance with the act of September 25, 1919, and provided further, that such increase is accomplished exclusively by means of assets belonging to the company's capital at the time of transformation.

## COOPERATIVE SOCIETIES

ART. 141. Partners' shares, securities, and loans of all cooperative societies of workers or artisans shall not be subject to the tax on income from securities and investments.

The same exemption shall apply to the federations of such cooperative societies, whatever may be their aim or designation.

ART. 142. Workers' cooperative credit and productive societies and workers' cooperative banks described in book III, title II, of the Labor Code shall enjoy the same exemption.

## FOREIGN SECURITY INVESTMENT COMPANIES

ART. 143. When a French company, with a view to assuring the rights of French investors, holds the shares and bonds of one or more foreign companies and issues, in lieu of such shares and bonds, special certificates indicating precisely the shares or bonds which such certificates represent, the yields of the certificates shall, in each fiscal year, be exempt from the tax on income from securities and investments to the extent it is proved that such yields correspond to the dividends or interest paid during the same fiscal year by the respective foreign companies and that the tax on such dividend or interest provided for in articles 50, 59, and 63 has been paid.

## REFORESTATION SOCIETIES

ART. 144. Reforestation societies described in article 22 of the act of December 31, 1931, shall be exempt from the tax on income from their shares during their first fiscal year.

## MUTUAL AID SOCIETIES

ART. 145. Interest and all other yields of loans contracted by mutual aid societies or their federations and by public and private hospitals, in accordance with the conditions prescribed in article 8, paragraph 2, and article 9, paragraph 1, of the act of April 15, 1916, shall be exempt from the tax on income from securities and investments.

The same exemption shall apply to loans contracted by municipalities, larger political subdivisions, and other public organizations in accordance with the conditions prescribed in article 6 of the act of September 7, 1919.

ART. 146. Interest and all other yields of loans made by mutual aid societies or their federations, officially recognized to serve the public interest, to organizations described in article 20, paragraph 2 (a), of the act of April 1, 1898, as modified, seeking to carry out for the benefit of their members the works contemplated in article 8, paragraph (f) of the said act, shall be exempt from the tax on securities and investments.

## LIMITED PARTNERSHIPS

ART. 147. In the case of limited partnerships whose capital is not divided into shares, the provisions of article 53, paragraph (3), shall apply only to the amount of capital invested by the silent partners.

## GENERAL PARTNERSHIPS

ART. 148. The provisions of article 53, paragraph (3), shall not apply in the case of commercial general partnerships, to partners' shares.

ART. 149. Interest on loans contracted by simple and general partnerships shall be exempt from the tax on income from securities and investments.

## JOINT-STOCK COMPANIES

ART. 150. The provisions of article 53, paragraph (3), shall not apply to the refund or the redemption of preferred shares in execution of the act of November 13, 1933.

Delivery to a shareholder, in exchange for shares to which plural voting rights were attached, of ordinary shares with a higher face value shall be exempt from the tax on income from securities and investments.

ART. 151. Collection of the tax on income from securities and investments due in consequence of the consolidation or merger of joint-stock companies existing on January 1, 1936, on account of increases in value resulting from the allotment of bonus shares, founders' shares or bonds, shall be deferred until the dissolution of the absorbing or new company, or until the total or partial reimbursement, in any form whatsoever, of such bonus shares, founders' shares or bonds.

The benefit of the preceding provision shall be subject to the condition that both the new and the absorbed or merged companies be of French nationality and that the document of merger or consolidation be recorded before April 1, 1937.

For the purpose of the application of the present article:

1. Companies formed in compliance with French Law which have their head offices in [French] colonies and protectorates shall be treated in the same manner as French companies;



2. Mining companies governed by article 75 ff. of the local act of December 16, 1873, provisionally continued in force in the departments of the Haut-Rhin, Bas-Rhin, and the Moselle, shall be treated in the same manner as joint-stock companies.

ART. 152. French joint-stock companies shall be exempt from the tax established by title III, chapter II, of this code with respect to interest and all other yield of loans, deposits, and guarantees of their branches and agencies established abroad.

Companies designated in the preceding paragraph shall be exempt, under the same conditions, from the tax on income from securities and investments with respect to the interest and all other yields on loans granted, other than by public subscription and without the issuance of negotiable securities, to foreign organizations described in article 50, paragraph 6.

ART. 153. When a French joint-stock or limited-liability company has received, in consideration of assets in kind or money contributed by it to another French joint-stock or limited-liability company, or to a joint-stock or limited-liability company formed in accordance with French law whose head office is in a [French] protectorate, registered shares, or partners' shares representing at least one-half of the registered capital of this latter company, the dividends distributed by the first company shall be exempt in each fiscal year from the tax on income from securities and investments established by article 50 to the extent of the yield of such shares received by it during that fiscal year; provided that such shares or partners' shares remain inscribed in the name of the [first] company, that they continue to represent at least one-half of the registered capital [of the latter company], and that the tax on income from securities due on their yield has been paid.

In case of merger or consolidation effected under the conditions prescribed in article 151, the benefit of the preceding provisions shall be transferred from the old to the new or consolidated company.

The exemption provided for in the first paragraph of this article shall apply, under the conditions there set forth, to French joint-stock and limited-liability companies which have subscribed to securities, in whatever number, of the great trunk railroads and of the Paris outer-circle railroad.

ART. 154. The exemption provided for in the preceding article shall apply, under the conditions there set forth, to French joint-stock and limited-liability companies which received, in consideration of assets in kind or money contributed by it to a foreign joint-stock or limited-liability company, registered shares or partners' shares of such latter company.

This exemption is subject to preliminary proof of the following facts:

1. That the securities were allotted to the French company in consideration of assets contributed in kind or money and that they remain inscribed in the name of such French company;

2. That the tax on income from securities and investments due on the dividends or other yield of such securities has been paid.

ART. 155. The provisions of article 50, paragraph 4, shall not apply to remuneration of whatever nature, percentage of profits, attendance fees and other payments for services received by the managing director of joint-stock companies over and above the amount allotted to other

members of the board of directors and to the extent that such remuneration is intended as payment for his services.

The provisions of article 50, paragraph 4, shall not apply to the yield due to managing directors over and above the amounts allotted to other members of the board of directors, or due to a sole director, so far as such yields are remuneration for his or their services. However, the preceding provision may not benefit more than two directors, designated by name, in each company.

In the case of directors who have been salaried employees of the company for at least 5 years prior to their becoming members of the board of directors, and who continue to occupy a salaried position in the company, the provisions of article 50, paragraph 4, shall only apply to the yields received by them in the capacity as directors.

Every incorrect return shall be punished by a fine equal to five times the amount of the concealed tax.

#### WARRANTS

ART. 156. The tax on income from securities and investments shall not apply to loans made to companies in the form of endorsement of warrants.

The same exemption shall apply to loans, secured by the harvest, made to wine producers under the conditions set forth in articles 1 and 2 of the decree of October 23, 1935, providing for additional assistance to wine growers in financing their harvests (art. 2, par. 2, of the said decree).

#### SECTION II. FOREIGN SECURITIES

ART. 157. The funds and investments of the Bank of International Settlements originating from German [reparation] payments shall be exempt from all fiscal charges.

ART. 158. Securities issued for the French block of the loan contracted by the European Commission of the Danube, amounting to 10,455,000 francs, shall be exempt from the taxes on securities and investments.

ART. 159. Securities issued in the French market with a view to the negotiation of the German annual [reparation] payments allotted to France pursuant to the agreements of January 20, 1930, shall be exempt from \* \* \* the tax on income from securities established by articles 50 and 63.

ART. 160. [Omitted.]<sup>10</sup>

ART. 161. [Omitted.]<sup>11</sup>

ART. 162. Dividends, interest, and all other yields of shares, bonds, and loans of Tunisian societies, companies, enterprises, and public organizations shall be exempt from the tax on income from securities and investments, except, however, those which are payable by societies, companies, and enterprises having as their object the exploitation of property situated in France.

The same exemption shall be enjoyed by the public securities which were issued, following the promulgation of the act of March 22, 1928, by the Moroccan Government pursuant to the acts of July 18, 1920, and March 22, 1928, authorizing the Moroccan Government to contract loans to the amount of 744,140,000 and 819,822,000 francs, respectively.

<sup>10</sup> This article provides for exemption from the stamp tax.

<sup>11</sup> This article provides for exemption from the transfer tax.

ART. 163. Dividends, interest, and all other yields of foreign securities which French insurance and reinsurance companies are required by foreign local laws to maintain on deposit abroad for guaranty, reserves and risks shall be exempt from the tax on income from foreign securities and investments, not subject to the subscription regime, established by articles 50 and 63.

This exemption is subject to proof of such deposits abroad; it shall cease to apply when such deposits are no longer required by law.

ART. 164. The tax established by title III, chapter II, of this code shall not apply:

1. To interest on mortgage loans secured by real property situated in Tunis.

2. To interest on annuities secured by real property situated in Tunis.

If the holder of a mortgage secured by real property situated in France has his domicile or permanent residence in Tunis, the tax on income from such mortgage shall be paid by the debtor, subject to his right of recourse against the creditor under the conditions set forth in articles 74 and 76, and subject to the penalties provided for in article 81.

#### CHAPTER V. SPECIAL RULES APPLICABLE TO FOREIGN ORGANIZATIONS

ART. 165. Notices published in the *Journal Officiel* shall make known the list of foreign securities concerning which an agent responsible for the stamp and transfer taxes and the income tax has been agreed upon.

An administrative order shall determine the measures necessary for the application of this article and the conditions under which the deposit of a guaranty may be substituted for the designation of a responsible agent.

ART. 166. Foreign societies, companies, and enterprises referred to in article 59 shall be required to file, before their establishment in France, and subject to a fine of from 100 to 5,000 francs, a certified copy of their articles of association with the registry tax office having jurisdiction in the place where their existence is first manifested.

ART. 167. Profits realized by maritime shipping companies established abroad and derived from the operation of foreign ships are exempt from taxation provided that the country whose flag such ships fly grants an equivalent exemption to French shipping companies.

The conditions of this exemption and the taxes covered thereby shall be fixed by diplomatic agreement with each country. They shall be incorporated in an ordinance, countersigned by the Minister of Finance and submitted to the legislature for ratification within 3 months.

Profits realized by maritime shipping companies in countries which have agreed to the reciprocal exemption provided for in the preceding paragraph shall be included in the calculation of the tax on industrial and commercial profits due from such enterprises, if such companies have their head offices in France.

ART. 168. As long as the treaties ratified by the two acts of July 13, 1933, remain in force, and if the creditor has his domicile or residence in Italy or Belgium, the tax established by title III, chapter II, of this code shall be paid by the debtor of the interest, or any other yields,



subject to his right of recourse against the creditor; the tax shall be paid as set forth in articles 74 and 76, and subject to the penalties provided for in article 81.

#### CHAPTER VI. ISSUE OF SECURITIES ABROAD BY FRENCH COMPANIES

ART. 169. Special series of securities issued abroad by the French trunk railroad companies and by the administration of State railways shall be subject to the fiscal regime applicable to securities issued by foreign companies which do not enter into a composition agreement for the payment of the stamp, transfer, and income taxes.

The evidence to be submitted by the issuing companies to the administration of registry taxes and the conditions of each issue shall be regulated by departmental orders of the Minister of Finance and the Minister of Public Works.

ART. 170. Special series of securities issued abroad by French societies, companies, and enterprises between November 11, 1918, and December 31, 1932, by authorization of the Minister of Finance, shall be subject, throughout their existence, to the fiscal regime applicable to securities issued by foreign companies which do not enter into a composition agreement for the payment of the stamp, transfer, and income taxes.

An administrative order shall provide the measures necessary for the application of this article.

#### TITLE V. MONEY AND SECURITIES BARRED BY THE STATUTE OF LIMITATION—ALLOTMENT TO THE STATE

ART. 171. Except in the case of low-cost housing societies, the State shall conclusively be entitled to the following items:

(1) The amount of dividends and interest barred either by the [statutory] 5 years' limitation or by contractual prescription, accrued from shares, founders' shares or negotiable securities issued by any commercial or civil company or any public or private organization;

(2) The shares, founders' shares, bonds or other securities of such organizations when barred either by the [statutory] 30 years' limitation or by contractual prescription;

(3) Deposits of sums of money and, generally, all cash property in banks, credit, and other establishments which receive funds for deposit or for current account, when there has been, for 30 years, no transaction or claim with respect to said items by the party entitled thereto;

(4) Deposits of securities and, generally, all interest in securities in banks, credit and other establishments which receive securities for deposit or for any other cause, when there has been, for 30 years, no transaction or claim with respect to said items by the party entitled thereto.

The preceding provisions shall not apply to the organizations described in article 135, paragraph 1, or to the federations of societies or agencies referred to in article 6 of the act of July 13, 1928.

ART. 172. The agents of the registry taxes shall have the right to demand access to all books, records, and all other documents which can facilitate the ascertainment of sums of money or securities to be acquired by the State, at the head offices, branches or agencies of the banks, establishments, or organizations referred to in the preceding article.

An administrative order shall determine the conditions for the application of the preceding provisions.

Every violation of the provision of article 171, or the present article and of the administrative order referred to in the preceding paragraph, shall be punished by a fine of from 100 to 5,000 francs to which shall be added a sum equal to the amount of dividends, interest, deposit, or the face value of the securities with respect to whose remittance [to the State] an omission, concealment or any other fraud has been committed to the prejudice of the State by the company, establishment, or organization concerned.

## TITLE VI. TAX ON STOCK EXCHANGE TRANSACTIONS

ARTS. 173-181. [Omitted.]

## TITLE VII. FISCAL FRAUDS. PENALTIES

ART. 182. Any person who fraudulently evades or attempts fraudulently to evade total or partial payment of taxes levied by virtue of law for the benefit of the Treasury shall be punished by a fine of from 1,000 to 5,000 francs, without prejudice to the rights of the Treasury.

In case the offence is repeated within 5 years, such person shall be punished by imprisonment of from 1 to 5 years, and he may be deprived, wholly or in part, for not less than 5 and not more than 10 years, of his civil rights enumerated in article 42 of the Criminal Code.<sup>12</sup>

Moreover, the court may order that the judgment, in whole or in part, be published in newspapers and be posted in places indicated by the court, all at the defendant's expense; however, the cost of publication and posting may not exceed 5,000 francs.

The provisions of article 7, last six paragraphs, of the act of August 1, 1905, shall apply.

Article 463 of the Criminal Code may be applied.<sup>13</sup>

Proceedings shall be instituted upon the complaint of the competent tax administration before the criminal court which has jurisdiction in the place where the tax should have been paid.

ART. 183. If it is proved that the taxpayer acted with a view to evade fraudulently total or partial payment of taxes, either in failing to file the declaration within the time prescribed, or in intentionally concealing part of his taxable income, he shall be punished, independently of the fiscal penalties provided for by the law, by a fine of from 1,000 to 5,000 francs, provided that, in case of concealment the concealed amount is at least 10 percent [of the total taxable sum].

The court may, in all cases, order that the judgment, in whole or in part, be published in newspapers and be posted in places indicated by the court, all at the defendant's expense; however, the cost of publication and posting may not exceed 5,000 francs. The provisions of article 7, last six paragraphs, of the act of August 1, 1905, shall apply.

In case the offence is repeated within 5 years, such person shall be punished by a fine of from 1,000 to 100,000 francs and by imprisonment of from 1 to 6 months. Posting and publication of the judgment may be ordered as provided for in paragraph 2 of the present article.

Article 463 of the Criminal Code may be applied.

<sup>12</sup> *Supra*, pt. I, note 22.

<sup>13</sup> *Supra*, pt. I, note 16.

ART. 184. Accomplices to the misdemeanor described in the preceding article shall be punished by the same penalties, taking into consideration the distinction made in the first paragraph of the said article, and without prejudice to disciplinary action in case they should be public officials.

ART. 185. The penalties provided for in article 183 shall also be imposed on any person who, with a view to assist evasion of the tax due on the whole or on part of another person's fortune, should act as an intermediary either in promoting the deposit of securities abroad or in collecting or negotiating or causing the collection or negotiation of coupons abroad, or drawing or collecting checks or any other instruments created for the payment of dividends, interest, or any other yields of securities and investments.

ART. 186. The procedure of formal summons (*mise en demeure*), provided for in article 52, last three paragraphs of the act of March 22, 1924, shall not be applicable in criminal prosecutions permissible under the law so far as taxes collected by the administration of registry taxes are concerned.

#### TITLE VIII. PROCEDURE

ART. 187. The tax administration shall have jurisdiction over difficulties which may arise with respect to the collection of taxes on securities and investments, before the institution of legal proceedings.

ART. 188. [Omitted.]<sup>14</sup>

ART. 189. The collection of the tax on income from securities and investments established by title III, chapters I and II of this code, shall be effected and legal proceedings shall be instituted and determined under the procedure applicable to registry taxes, saving the procedure to be followed in the case of violations described in article 70, paragraph 1.

#### TITLE IX. GENERAL PROVISIONS

ART. 190. [Omitted.]<sup>15</sup>

ART. 191. When securities or investments have been pledged as collateral security for loans, the debtor may obtain reimbursement of the tax paid on income from such securities, up to the amount of taxes collected on the interest of his debt, provided that:

(1) He petitions for such reimbursement, proves the existence of the debt, that the interest on such debt has in fact been paid to the creditor and that the tax established by article 71 of this code, due on account of such interest, has been paid;

(2) He proves that the tax on income from the securities pledged is payable by the holder of such securities and has been paid by him.

ART. 192. The French tax administrations are authorized to agree with Moroccan administration upon the exchange of all information they respectively have or may obtain, particularly by reason of the right of access to documents, with a view to the control of taxes and to the prevention of fiscal fraud.

<sup>14</sup> This article provides for the collection of the stamp tax.

<sup>15</sup> This article provides for the return, under certain conditions, to municipalities and larger political subdivisions of taxes collected on their bond issues.



ART. 193. [Omitted.]<sup>16</sup>

ART. 194. In all cases where the taxes established by the present code are paid by affixing a stamp, the sale or attempted sale of used stamps shall be punished by the penalties provided for in article 8 of the code of stamp taxes.<sup>17</sup>

ART. 195. There shall be added to the taxes collected by virtue of the preceding provisions, as of the due date thereof, interest in arrears on the sums due, calculated on the basis of the loan rate charged by the Bank of France, unless the amount of such taxes is otherwise increased as a penalty for overdue payment by virtue of existing laws. Any portion of a month shall be regarded as an entire month.

ART. 196. The penalties collected by the administration of registry taxes for violation of the provisions of this code shall be distributed, not exceeding 10 percent, in accordance with rules to be prescribed by an administrative order.

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<sup>16</sup> This article subjects State railways in France and in Alsace-Lotharingia to the same duties and rights as private railroad companies.

<sup>17</sup> I. e., fine of from 50 to 1,000 francs.

























